

No. 11514

United States
Circuit Court of Appeals
For the Ninth Circuit.

COLGATE-PALMOLIVE-PEET COMPANY,
Petitioner,
vs.
NATIONAL LABOR RELATIONS BOARD,
Respondent,
and
INTERNATIONAL CHEMICAL WORKERS UNION, A.F.L.,
et al., Intervenor,
and
WAREHOUSE UNION LOCAL 6, INTERNATIONAL
LONGSHOREMEN'S & WAREHOUSEMEN'S UNION
(CIO), Intervenor,
and
NATIONAL LABOR RELATIONS BOARD,
Petitioner,
vs.
COLGATE-PALMOLIVE-PEET COMPANY,
Respondent.

Transcript of Record

In Three Volumes

Volume II

Pages 337 to 666

Upon Petition for Review, and Petition to Enforce Order
of the National Labor Relations Board.

No. 11514

United States
Circuit Court of Appeals
For the Ninth Circuit.

COLGATE-PALMOLIVE-PEET COMPANY,
Petitioner,
vs.
NATIONAL LABOR RELATIONS BOARD,
Respondent,
and
INTERNATIONAL CHEMICAL WORKERS UNION, A.F.L.,
et al., Intervenor,
and
WAREHOUSE UNION LOCAL 6, INTERNATIONAL
LONGSHOREMEN'S & WAREHOUSEMEN'S UNION
(CIO), Intervenor,
and
NATIONAL LABOR RELATIONS BOARD,
Petitioner,
vs.
COLGATE-PALMOLIVE-PEET COMPANY,
Respondent.

Transcript of Record
In Three Volumes
Volume II
Pages 337 to 666

Upon Petition for Review, and Petition to Enforce Order
of the National Labor Relations Board.

(Testimony of Albert Zulaica.)

Mr. Hecht (interposing): I am entitled to impeach him and he has been impeached.

Mr. Tobriner: Then I have a right by your own statement to show why the plea was made, to show that your impeachment is improper and out of order, and that is exactly the purpose of my question.

Mr. Edises: Mr. Examiner, I want to suggest that if this procedure is allowed to go on it will obviously take this trial into a lot of by-paths, and I submit that the Trial Examiner should rule in this instance that the testimony is relevant for the purpose that I indicated a moment ago, even though it may not technically be impeachment.

Mr. Tobriner: Mr. Examiner, I can ask one question——

Trial Examiner Ruckel (interposing): I thought I permitted the questions a while ago. Now, the objection I am upholding now is the objection which apparently is designed to show—to go behind the proceedings to show that they were fraudulent, or that his plea of guilty was [199] brought about by coercion on the grounds that the Respondent almost certainly could not know that was the case, if it was, and we are concerned here with the Respondent's motive in discharging a man.

Mr. Tobriner: Yes, but the testimony originally went into the record not on that ground but because Mr. Hecht——

Trial Examiner Ruckel (interposing): Well, I am paying no attention to it on the grounds of

(Testimony of Albert Zulaica.)

impeaching witnesses, whether it was offered for that purpose or not, and I sustain this objection.

Mr. Tobriner: I have no further questions.

Mr. Royster: That is all.

Mr. Hecht: Will the Examiner entertain at this time a motion to dismiss all charges against the Respondent brought on behalf of the complainant, Albert Zulaica?

Trial Examiner Ruckel: No, not at this time. I will entertain that motion at a later time, with respect to all of this.

Mr. Hecht: Very well, Mr. Examiner.

Trial Examiner Ruckel: That is all.

Mr. Royster: That is all.

(Witness excused.)

Trial Examiner Ruckel: We will recess for 10 minutes.

(A short recess was taken.)

Trial Examiner Ruckel: Call the next witness.

Mr. Royster: Mr. Lonnberg.

HAROLD R. LONNBERG

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Royster:

Q. State your name and address for the record, please.

(Testimony of Harold R. Lonnberg.)

A. Harold R. Lonnberg, 1245 60th Avenue, Oakland.

Q. What is your occupation, Mr. Lonnberg?

A. At the present time I am working as a roll operator in a steel plant, Steel Tank and Pipe in Berkeley.

Q. And you were employed by the Respondent for what period?

A. I was first employed on June 29 in 1938.

Q. And when did you leave that employment?

A. On July 31 I was suspended.

Q. Of what year? A. Of 1945.

Q. And you were a member of the ILWU, were you not? A. I was.

Q. For what period?

A. From the time that the Local Industrial Union 96, CIO, was transferred into the Warehouse Union.

Q. Up until when? [201]

A. Up until my suspension.

Q. And that occurred when?

A. On July 31, if I recall right.

Q. 1945? A. 1945.

Q. Now, you attended this meeting of Respondent's employees to which reference has been made on July 26, did you not, Mr. Lonnberg?

A. I did.

Q. And it was at that meeting that—strike that.

Was there a statement made at that meeting as to the purpose of the Employees Welfare Association? A. Yes.

(Testimony of Harold R. Lonnberg.)

Trial Examiner Ruckel: I thought we had agreed off the record yesterday——

Mr. Royster (interposing): We had talked about it off the record, Mr. Examiner. I think that I can agree that after this witness I will ask no other witness any questions with respect to that point, but I am not completely satisfied with the state of the record on it yet.

Trial Examiner Ruckel: All right, continue.

Q. (By Mr. Royster): Will you state, or can you state, what the purpose of the Welfare Association was?

A. The title of it may seem misleading, but it was to take care of the negotiations and relations, labor relations, [202] of the employees with the Employer.

Q. Now, Mr. Lonnberg, at the meeting of the Welfare Association on July 30 you, among three others, were selected to meet with the Company, were you not? A. That is right.

Q. Now, on July 30 did you see Board's Exhibit 4 (handing document)?

A. (Examining document) It was brought to my attention.

Q. Where did you see it?

A. It was shown to me by one of the other fellows at the plant.

Q. All right. On July 31, you, with three others who have been named, went to Mr. Railey's office?

A. That is right.

Q. Was anything said in Mr. Railey's office and

(Testimony of Harold R. Lonnberg.)

in Mr. Railey's presence with respect to your suspension?

A. Yes. Mr. Heide informed the four of us that there were letters made out stating the reasons that we were to be suspended, that were in the mail to us, and that one of them, he did not know their name, so he had to fill in the name on that one. The letter was already made out and it would be put in the mail. That was Brother Olsen.

Q. Now, when was this statement made to you with reference to the so-called strike, which, I understand, occurred at noon of July 31? [203]

A. The meeting occurred and was concluded before any such action was taken.

Mr. Hecht: What meeting was that, may I ask, Mr. Royster?

Mr. Royster: This is the meeting in Mr. Railey's office. It is part of our stipulation.

Mr. Hecht: Yes.

Mr. Royster: Where the four committeemen came in.

Mr. Hecht: Yes, thank you.

Q. (By Mr. Royster): Have you worked, then, for the Company since the 31st day of July?

A. The 31st day of July? No.

Q. And have you made an attempt to be reinstated? A. Yes.

Q. And when was that?

A. On or about the 17th of August.

(Testimony of Harold R. Lonnberg.)

Q. And you were refused reinstatement at that time, were you not? A. That is right.

Q. Were you in Respondent's plant on August 25, 1945?

A. On or about that date, yes.

Q. And who accompanied you, if anyone?

A. Mr. Harvey E. Howard and Mr. Dave Luchsinger.

Q. And who was Mr. Howard?

A. At that time he was the representative of the A. F. of L. [204] Local Chemical Workers 233.

Q. You were a member of the Chemical Workers, were you? A. I was.

Q. What happened during the time you were in the plant?

A. We went through various departments in the plant and said, "Hello" to the people. We run across Mr. Gleichman in the Seafoam Department, who was talking to one of the employees.

Q. Is that Hack Gleichman seated at the counsel table?

A. Gleichman, whatever his name is, yes.

Q. Did you have any conversation with any company representatives on that occasion?

A. We went through some more departments, and when we were in the Toilet Article Warehouse talking to some of the people there, Mr. Carter, the Supervisor, came there.

Q. And what did Mr. Carter say?

A. He said, "I will have to ask you to leave this plant." And I asked Mr. Carter, "Why?" He

(Testimony of Harold R. Lonnberg.)

said, "You are not any longer an employee here, and—" he says, "you have no business here."

I asked Mr. Carter why Mr. Gleichman and a Mr. Carlisle Harrison were permitted in the plant and we were not. He said, "They are representatives of the CIO Longshoremen's and Warehousemen's Union." I told him that to my knowledge Mr. Carlisle Harrison was not an elected representative, to [205] my knowledge, that he was only a former employee the same as myself, and that I thought that Mr. Harrison and Mr. Gleichman should be asked to leave if we were.

Q. Did you leave the plant?

A. We did.

Q. What was your purpose in visiting the plant?

Mr. Hecht: At this point may I make a motion to strike all the testimony with reference to August 25 and the visit of this gentleman to the plant?

Trial Examiner Ruckel: The motion is denied.

Q. (By Mr. Royster): What was your purpose in visiting the plant, Mr. Lonnberg?

A. Mr. Luchsinger and myself and Mr. Howard were in the Local's office at 1440 Broadway, when we were called up from the plant and informed that these two aforementioned gentlemen were there. We tried to contact the management of the plant, Mr. Railey, Mr. Altman, or Mr. Wood. We could not contact any of them, so we decided to go down and see what was going on. So consequently we went down to the plant and went all

(Testimony of Harold R. Lonnberg.)

through the plant before we were escorted out of the plant.

Q. Well, you stated you were talking to employees in the plant. What were you talking to them about?

A. Well, we didn't stop to talk to any of them at that——

Mr. Hecht (interposing): Mr. Royster, just a moment, [206] please.

Mr. Hecht: I think what they were talking to the employees about is incompetent, irrelevant, and immaterial.

Mr. Royster: He can testify what he was saying to the employees.

Mr. Hecht: I don't see what bearing it has on the case as far as this Respondent is concerned.

Trial Examiner Ruckel: You may answer.

A. We spoke to the various people that approached us as we went through. We said, "Hello" to them and told them that everything was looking fine as far as we knew, but we did not think it was right that the CIO should be able to campaign on the job and the A. F. of L. not.

Mr. Royster: That is all.

The Witness: And—pardon me.

Mr. Royster: Excuse me. Finish your answer.

The Witness: We did not only talk to employees. There were some of the foreman asked us questions too, and we gave them the same answers.

Q. (By Mr. Royster): Can you recall the names of any of the foremen?

(Testimony of Harold R. Lonnberg.)

A. I would rather not as these men are still working in Colgate-Palmolive-Peet's.

Mr. Royster: That is all.

Mr. Hecht: Mr. Royster, may I call your attention to [207] the complaint.

Mr. Rowell: Well—

Mr. Hecht (interposing): This is preliminary to a motion.

Mr. Rowell: I see.

Mr. Hecht: Paragraph 5, Subdivision 3; I assume that the testimony of Mr. Lonnberg is directed to this subdivision?

Trial Examiner Ruckel: At least it fits in there.

Mr. Royster: Yes.

Mr. Hecht: Yes. Now, Mr. Examiner, it says, "Refusing union representatives access to its Berkeley plant, while permitting ILWU representatives freely to enter the plant and to visit employees during working hours."

My reference is to the first part of the paragraph. There is no evidence here adduced from Mr. Lonnberg that they were refused access. As I understand the connotation of such language is that they asked for permission to come in and it is refused. It appears here these gentlemen did not ask for permission to enter but were escorted out for reasons which Mr. Carter may have had.

I am going to move to strike, it being at variance with the pleading, and not proving any allegation of the complaint.

Trial Examiner Ruckel: Motion denied.

(Testimony of Harold R. Lonnberg.)

Mr. Rowell: May I ask one or two questions?

Mr. Hecht: I am going to ask some questions.

Mr. Rowell: I want to ask further questions on direct.

Trial Examiner Ruckel: You want to supplement these questions?

Mr. Rowell: I want to supplement the direct.

Q. (By Mr. Rowell): Mr. Lonnberg, at this meeting of July 30 were there any foremen or supervisors of the Company there?

A. Yes, sir.

Q. Who were there that were in that category?

A. Brother Chuck Grube.

Q. Charles Grube? A. Charles Grube.

Mr. Hecht: I move to strike that, Mr. Examiner, as incompetent, irrelevant, and immaterial, as not bearing on the issues of this case. It has been testified Grube was an ILWU member. I don't see what the point is.

Mr. Rowell: Mr. Wood testified he had supervisory capacity, Mr. Examiner.

Mr. Hecht: Well, he was a member of the Union too.

Trial Examiner Ruckel: What is the point if he was a member of the Union?

Mr. Rowell: It just adds to the evidence and the fact that the Company had knowledge of the meeting.

Mr. Hecht: That is not denied. [209]

Mr. Rowell: Well——

(Testimony of Harold R. Lonnberg.)

Trial Examiner Ruckel (interposing): Objection sustained.

Q. (By Mr. Rowell): Did you receive a letter from the Union after this meeting in Mr. Railey's office about which you testified? A. Yes.

Q. Have you got that letter?

A. No; I am sorry. I destroyed it.

Q. Can you remember what it said?

A. It was similar to the letters that were received by the other three men that were in the office at the time I was.

Q. I show you Board's Exhibit 9, Mr. Lonnberg, and ask whether the letter you received was similar to that?

Mr. Edises: Is that 9 for identification?

Mr. Royster: No; it is in evidence.

Q. (By Mr. Rowell) Was there any difference in your letter?

A. (Examining document) The only difference that I see was my name and address.

Q. Did you ever receive any other letter from the Union? A. I did.

Q. When did you receive that?

A. It was approximately two or three weeks after this one.

Q. And have you got that letter? [210]

A. No, I am sorry.

Q. Can you remember what it said?

A. There is one sentence that stands out in that

(Testimony of Harold R. Lonnberg.)

letter distinctly in my mind. It was the last sentence of the first paragraph.

Q. And what did that say?

A. It said that——

Mr. Edises (interposing): Now, just a moment. I want to enter an objection.

There has been no showing of the unavailability of the best evidence, and there is no showing of any accurate recollection of the contents so as to enable him to testify in a secondary way.

Mr. Rowell: He has testified it stood right out in his mind.

Trial Examiner Ruckel: Do you have a copy of that letter?

Mr. Edises: One particular paragraph stands out in his mind. We are not required to be bound by that testimony. We have a right to demand the best evidence, at least in the absence of a showing that it is unavailable.

Trial Examiner Ruckel: Do you have it home or elsewhere?

The Witness: No, I am sorry. I was burning some trash in my yard when I received that letter and I dropped [211] it in the fire.

Mr. Hecht: Mr. Edises, may I suggest that the intervener produce its copy of the letter, if any.

Mr. Edises: Well, I presume——

Trial Examiner Ruckel (interposing): It seems to me there must be copies of the letter or of similar letters.

(Testimony of Harold R. Lonnberg.)

Mr. Edises: If the original is unavailable I daresay the copy would be the best evidence.

Trial Examiner Ruckel: Objection sustained.

Let's have your copy if you have it.

Q. (By Mr. Rowell): What was the date of that?

A. It was two or three weeks after this letter was received.

Mr. Royster: Around the 20th of August.

Mr. Rowell: I think the witness should be permitted to testify subject to a motion to strike.

Mr. Edises: Let's wait and see if we have a copy.

Mr. Rowell: If a copy isn't produced——

Trial Examiner Ruckel (interposing): Any further questions?

Mr. Rowell: Well, they are looking for a copy.

Mr. Hecht: Mr. Examiner, when the letter or the copy of the letter is produced may it be understood that any testimony in connection therewith is not binding on the Respondent unless his knowledge is shown? [212]

Trial Examiner Ruckel: Well, it pretty well stands to reason, it seems to me——

Mr. Rowell: (Interposing) I don't see that at all, Mr. Examiner. This case is directed against the Company in all its phases. The intervening union here is only properly in the case in so far as it offers evidence and testimony on a defense by the company. They are making defenses which have been thoroughly stated, and the purpose of

(Testimony of Harold R. Lonnberg.)

which has been explained, and the defenses are different than the ones that Mr. Hecht is making.

Trial Examiner Ruckel: Are you going to bind the company by a letter from the union to this man of which the company didn't receive a copy? Even if it did receive a copy?

Mr. Rowell: The union's position is that these men were suspended because of strike action, at least some of them. It certainly doesn't apply to Mr. Lonnberg, but that position can only be supported as a company defense. And if the position is being maintained by the Intervener on behalf of the company we are entitled to meet it.

Mr. Hecht: You asked the question, Mr. Rowell. Mr. Edises didn't.

May we have a recess while Mr. Edises looks for that letter?

Trial Examiner Ruckel: We just had one. I hope in a [213] second he will find it.

Mr. Tobriner: Off the record.

Trial Examiner Ruckel: Off the record.

(Remarks off the record.)

Trial Examiner Ruckel: On the record.

Mr. Edises: We will object to any questions as to any communications which may have been sent in by the union, one, on the ground that the communication itself would be the best evidence; second, on the ground that it does not prove or tend to prove any of the issues in the case; it is incompetent, irrelevant and immaterial.

(Testimony of Harold R. Lonnberg.)

Mr. Hecht: We join in the objection, Mr. Examiner.

Trial Examiner Ruckel: Well, since you are unable to find the copy of that letter and since he has testified that he destroyed the original, I think he may testify what it says, to the best of his recollection.

Mr. Edises: Well, may this be subject to a motion to strike in the event it is not connected with the company?

Trial Examiner Ruckel: Certainly. I don't know whether it is relevant or not.

Mr. Rowell: Will you answer the question? Can you remember?

A. The sentence that stood out in my mind was the last sentence of the first paragraph.

Q. (By Mr. Rowell): What did that say? [214]

A. It stated that Sherman, Lonnberg and Thompson were considered no longer connected with the Warehouse Union regardless of trial, and it went further to state, further down in the letter, that it was a call for me to appear at a trial in the Warehouse Union's hall.

Mr. Hecht: Now, on behalf of the company, of the respondent, I move to strike it, Mr. Examiner.

Mr. Edises: We join in that motion, your Honor.

Mr. Rowell: I can only repeat that the CIO union has been allowed to go into these matters on some sort of an expectation which, I suppose, is forwarded to them by the company, that it will be tied up later as to the issue of knowledge of the

(Testimony of Harold R. Lonnberg.)

company. I don't know the Board's case. Maybe this will get tied up for all I know. If they are going to produce a lot of testimony as to what the company knew——

Trial Examiner Ruckel: (Interposing) Maybe it will get tied up, but you don't have any present expectation?

Mr. Rowell: Well, I can't have any control over the company's witnesses as the CIO apparently has. I don't know what is going to come out as to the knowledge of the company. Apparently it is more extensive than I thought it was.

Mr. Edises: Mr. Examiner, I want to make a motion to strike. There is a completely uncalled for statement in [215] Mr. Rowell's remarks, that apparently the CIO has control over the company's witnesses.

Now, I submit, Mr. Examiner, that it is perfectly possible to try this case without going into personalities of that kind.

Trial Examiner Ruckel: Well, I should think so. The motion to strike is——

Mr. Tobriner: (Interposing) Mr. Examiner, may I be heard for just a moment? I want to point out if the question is brought up at all as to the suspensions or expulsions and the trials, and if the Company and the CIO are relying upon those actions in a manner of defense here, that it certainly would be unilateral if they were permitted to introduce proof and statements as to the rulings in those trials and we were prevented from so doing. In

(Testimony of Harold R. Lonnberg.)

other words, if the matter is to be probed by one party, and if one party is to be permitted to rely on it on the ground that he has some knowledge that subsequently he obtained as to the reasons for the suspensions, certainly we should be permitted to place into the records the full story of the suspensions so that the Board could have all the facts and make its own determination.

Trial Examiner Ruckel: Well, I don't subscribe to your general statement. I am going to let this particular bit of testimony stand for what it is worth. [216]

Mr. Edises: Will my motion be granted as to Mr. Rowell's uncalled for remarks?

Mr. Rowell: He already granted it, Mr. Edises.

Trial Examiner Ruckel: I said yesterday we should keep them out of the record.

Mr. Rowell: I withdraw the remark.

Trial Examiner Ruckel: Let's continue with this witness. At the rate we are making this morning we will be here endlessly.

Mr. Rowell: I have no further questions.

Cross Examination

By Mr. Hecht:

Q. Mr. Lonnberg, on August 17, 1945, when you applied for reinstatement at the respondent's plant you were not a member in good standing of the ILWU?

A. To my knowledge, I hadn't been tried or found guilty or anything of the kind. I was still, to my knowledge, in good standing with the ILWU

(Testimony of Harold R. Lonnberg.)

in the sense that my dues were within—reasonably paid up.

Mr. Hecht: I move to strike the answer on the ground that it is not responsive, Mr. Examiner.

Mr. Tobriner: Mr. Examiner, it answers the question fully, and the witness should be permitted to tell the whole story, as he has.

Trial Examiner Ruckel: It may be stricken.

Q. (By Mr. Hecht): Perhaps to aid you, Mr. Lonnberg, I [217] will reword my question. You knew at that time that the respondent had been informed by the authorized officers of the ILWU that you were not in good standing with the ILWU?

A. Yes, I was in the meeting there with the other three men when we were told about it.

Q. Mr. Lonnberg, on August 17, 1945, you knew that there existed a collective bargaining agreement between the Respondent and the ILWU dated July 9, 1945?

Mr. Rowell: '41.

Mr. Royster: '41.

Mr. Hecht: '41. Pardon me.

A. Yes, sir.

Q. (By Mr. Hecht): Are you familiar with the terms of that contract?

A. To a certain extent, yes.

Mr. Hecht: May I have Board's Exhibit 7?

(The document was handed to Mr. Hecht.)

Q. (By Mr. Hecht): Will you read Section 3 on page 1 of the contract to yourself, Mr. Lonnberg?

(Testimony of Harold R. Lonnberg.)

Mr. Tobriner: In order that the record be complete, we object to this whole line of questioning on the ground it is immaterial.

Trial Examiner Ruckel: He may ask him.

Q. (By Mr. Hecht): Does your recollection of what is contained in that contract gibe with what is expressed in [218] Section 3?

A. Approximately, yes.

Q. On August 25, 1945, you stated that you entered respondent's plant in the afternoon?

A. On August which?

Q. 25, 1945? A. On or about.

Q. That was a Saturday, was it not?

A. Yes.

Q. Had you at any time prior to August 25 asked permission of any officer or agent of the respondent to enter the plant for the purpose of doing, let us say, electioneering?

A. I hadn't myself, but our union representative had.

Q. Will you name that union representative?

A. Mr. Harvey E. Howard.

Q. Of whom had he made that request?

A. I do not recall.

Q. Is Mr. Harvey Howard, to your knowledge, available to testify in this case?

A. I do not know.

Q. You know Mr. Howard is not any longer in the East Bay, do you not?

A. I don't know whether he is or is not.

(Testimony of Harold R. Lonnberg.)

Q. For your information, Mr. Howard is now in the East and not available to testify. Did you know that before you made [219] this statement?

A. I did not.

Mr. Tobriner: Objected to on the ground this is utterly immaterial, where Mr. Howard may happen to be.

Trial Examiner Ruckel: Just a moment. Objection sustained.

Mr. Hecht: Very well.

Q. (By Mr. Hecht): Did Mr. Howard tell you that he had made such a request? A. Yes.

Q. When?

A. It was prior to this trip to the plant.

Q. You don't know of your own knowledge that Mr. Howard had made such a request?

A. I do not.

Q. You do not. You are merely relying, then, on what Mr. Howard told you?

A. That is right.

Q. Correct. Did you, after August 25, make any approach to the company to be permitted to enter the plant for the purpose of doing electioneering? A. No, I did not.

Q. As I understand it, Mr. Lonnberg—you will have to help me—I don't know the physical set-up of the plant—there is a cyclone fence around the buildings? [220] A. Yes.

Q. And a gate also, a cyclone fence that moves back and forth? A. Swings.

Q. Or opens and swings. And at this gate there

(Testimony of Harold R. Lonnberg.)

is a sentry box, sort of, where there is a watchman?

A. There was a watchman at the gate, yes.

Q. This watchman makes you register as you come in, did he not? A. He didn't this time.

Q. He did not ask you to register?

A. He did not.

Q. You knew it was the practice to register?

A. I had never been required to register going in there before.

Q. Before you were an employee?

A. That is right.

Q. But you knew that persons who were not employees were required to register?

A. I had not noticed that practice, no.

Q. You know there is a sign on the gate that so states? A. I had not observed it.

Q. You had not observed it in your four years of employment in the plant?

A. The gate was always open when I went through it. [221]

Q. And the sign was not there, to your knowledge?

A. It may have been. I don't know. I didn't observe it.

Mr. Tobriner: Objected to.

Mr. Hecht: That is all.

Q. (By Mr. Edises): Mr. Lonnberg, will you look at the document I hand you and see if you can identify it?

A. (Examining document) Yes, this is similar to the letters the other three men received.

(Testimony of Harold R. Lonnberg.)

Q. Would you say that was a copy of the letter you received?

Mr. Rowell: Let's have the letter specified. Which letter are you talking about, Mr. Edises?

Mr. Edises: Mark that for identification, please.

Mr. Rowell: In other words, the witness testified he received two letters.

Mr. Edises: Would you mark that for identification, please?

(Thereupon the document above referred to was marked Intervener's Exhibit No. 4 for identification.)

Q. (By Mr. Edises): Intervener's No. 4 is a copy of a letter bearing date of July 31, 1945, addressed to Mr. Harold Lonberg, 1245 60th Avenue, Oakland, California.

I ask you if you can identify this as a copy of a letter which you received on or about that date?

A. (Examining document) It looks almost like it.

Q. Yes. [222] A. As near as I can tell.

Q. You later received a letter from the Union stating that you were going to be tried on October 3, isn't that correct? A. Approximately.

Q. Did you show up for the trial?

A. I did not.

Q. Did you take part in the meeting of employees of the company which took place on September 30? A. I did.

Q. Did you participate in that——

(Testimony of Harold R. Lonnberg.)

Mr. Royster (interposing): Do you mean July 30?

Mr. Edises: Sorry; July 30.

Q. (By Mr. Edises): Your answer is "Yes"?

A. Yes.

Mr. Edises: Do we have the minutes of that? I think it is Intervener's 2.

(The document was handed to Mr. Edises.)

Q. (By Mr. Edises): These have been identified as the minutes of that meeting, Mr. Lonnberg, and I would like to call your attention to the third paragraph.

Would you read that, please?

A. (Examining document.)

Q. That reads, does it not, "Motion that we go back to work tomorrow morning pending settlement of 5 Brothers Shop Stewards laid off by management at request of I.L.W.U. [223] officials. If Shop Stewards don't work, nobody works. Carried unanimously."

Does that comport with your recollection of the resolution that was made and carried at that meeting? A. Yes.

Q. And then calling your attention to the fifth paragraph "Motion to Elect a two-member negotiating committee. Nominated and seconded were E. H. Thompson, Wm. Sherman, H. Lonnberg, and Lincoln Olsen. An amendment to the motion that the 4 members nominated to be elected, amendment seconded. Amendment carried and motion carried unanimously."

(Testimony of Harold R. Lonnberg.)

Does that likewise comport with your recollection? A. It does.

Q. And the H. Lonnberg referred to there is yourself, is it not? A. That is right.

Q. And pursuant to that authorization you went to the Company the next day, did you not, and demanded the reinstatement of the Stewards?

A. We did.

Q. And just what took place at that time?

A. We had to wait until Mr. Railey was in the plant. Then the four of us got together and presented ourselves to Mr. Railey in Mr. Railey's office. We asked for the reinstatement of the Stewards upon the job. It was talked pro and con, [224] and he told us that——

Q. (Interposing): Did you tell him who you were? A. We did.

Q. Did you tell him what your authority was?

A. We told him we represented the employees of the plant, and the purpose was to try and reinstate the Stewards on the job.

Q. Did you conceal from him the fact that you had authority to stay away from work if your demand was not granted?

Mr. Rowell: I object to the form of that question, Mr. Examiner.

Trial Examiner Ruckel: Objection sustained.

Q. (By Mr. Edises): Did you mention that?

Mr. Tobriner: Objection on the ground I don't know what counsel means when he says——

Trial Examiner Ruckel: Objection sustained.

(Testimony of Harold R. Lonnberg.)

Q. (By Mr. Edises): Did you mention the fact that the membership had authorized staying away from work unless the demand was carried out?

A. I didn't mention it. Brother Sherman was our spokesman.

Q. Did he mention it?

A. I don't recall.

Q. Your demand was turned down, wasn't it?

A. He told us that he could not hire the men back because of the agreement with the ILWU.

Q. Then what happened next?

A. He then asked us, or he left the office and came back and told us that the officials of the Warehouse Union were over in Mr. Altman's office and asked us if we would meet with them. At first we refused to, but then we finally acceded to meeting with them. So they came into the office, and Mr. Railey made an extensive speech which amounted to that under the terms of the contract the company's hands were tied, and also the National Labor Relations Act would enter into the picture.

Q. What happened next?

A. So in the ensuing conversation the four men were authorized that there were letters in the mail stating to the Company that they were no longer in good standing with the ILWU, so we were to be suspended, and they asked Mr. Lincoln Olsen's name, because they did not have his name.

Q. Yes. What happened next?

(Testimony of Harold R. Lonnberg.)

A. The meeting broke up and the five Stewards left the plant and so did the Union officials.

Q. The five Stewards were present during this conversation?

A. They were, while the conversation was going on, yes.

Q. Yes. And then what took place after this conversation?

A. The Stewards and the Union officials were asked to leave the plant, and the four of us left the office, and Mr. Railey spoke, as has been testified, to us in front of Mr. [226] Smith's office.

Q. Well, then, what did you do after that?

A. I went back to my job.

Q. Yes. Oh, by the way, before you went back to your job, the four of you had been together? You left the office in a group, did you?

A. Yes.

Q. Did you say anything to each other?

A. No.

Q. You just walked out silently, huh?

A. That is right.

Q. What? A. That is right.

Q. What was the first thing you said to each other after you left the office?

A. Well, Mr. Railey started a conversation with us outside of Mr. Smith's office.

Q. With the four of you?

A. The four of us.

Q. And what was the substance of that conversation?

(Testimony of Harold R. Lonnberg.)

A. He said that he was sorry that things were the way they were, he would like to see us back there to work.

Q. Yes. And then what did you do next?

A. I went back to my job, and various people asked me what took place, and I told them. [227]

Q. And what did you do next?

A. I went to the meeting.

Q. What meeting?

A. At noon; at 12:15.

Q. What was done in regard to having the employees leave their jobs?

A. Well, the employees were fully informed of the previous action, as a matter of fact it was their action, and we informed them the results of the meeting, so they went to a meeting at 12:15.

Q. I want to be sure that I understand you. You say that they were fully informed of their previous action. You mean to say that it was generally known throughout the plant?

A. That is right.

Q. That a resolution had been passed in the shape of the resolution contained in these minutes?

A. That is right.

Q. And, if I understand you correctly, when you informed the employees that you had been successful in accomplishing your mission, they then understood that the resolution was to be carried out, is that correct? A. That is right.

Q. And how long after you notified the em-

(Testimony of Harold R. Lonnberg.)

ployees that you had not succeeded in getting the Stewards back did they walk out? [228]

A. As it has been testified, that meeting broke up at approximately 11 o'clock.

Q. So it was about one hour later, is that right?

A. Approximately, yes.

Q. Now, just what did you do personally about notifying the employees of the results of the conference?

A. As I went back to my department various people approached me and asked me the results, and I informed them.

Q. Did you make any kind of a circuit around the plant? A. I did not.

Q. Did any of the other members of the committee, to your knowledge?

A. Brother Thompson did.

Q. Just what did he do, if you know?

A. He ran around and informed various people within various departments the result of the meeting.

Q. And then you remained away from work to the same extent as the rest of the people, two and a half days, is that right?

A. That is quite obvious. I was suspended.

Q. I didn't ask you whether it was obvious or not. I just asked you whether you remained away from work from that time on?

A. I haven't worked for that company since.

Q. Did you speak in favor of the resolution

(Testimony of Harold R. Lonnberg.)

at the time [229] that it was adopted on July 30?

A. Which resolution?

Q. The resolution in regard to getting back the Shop Stewards? A. I believe I did.

Mr. Tobriner: Would you please refer to the resolution, Mr. Edises? It isn't quite clear just what you do mean.

Mr. Edises: "Motion that we go back to work tomorrow morning pending settlement of 5 Brothers Shop Stewards laid off by management at request of I.L.W.U. officials. If Shop Stewards don't work, nobody works. Carried unanimously."

Q. (By Mr. Edises): Did Mr. Sherman speak in favor of that resolution?

A. Mr. Sherman was the Chairman.

Q. Would you answer the question, please?

A. I don't recall.

Q. Did Mr. Thompson speak in favor of the resolution?

A. I don't recall that he spoke for or against it, I mean after the resolution was made, but I think he said something about it previous to that.

Q. Did Mr. Lincoln Olsen speak in favor of the resolution?

A. I don't believe Mr. Olsen spoke at that meeting.

Q. Now, were there any activities, or was there any program adopted for keeping the employees together during the time of the walkout, keeping them informed of what was going on, [230] and so on? A. Yes.

(Testimony of Harold R. Lonnberg.)

Q. Would you describe that program, please?

A. I believe that program was set up on July 31. There were various employees of the Company to receive telephone calls from the people within their department concerning what was taking place.

Q. And was there anything in the nature of a strategy committee?

A. I believe the four men, along with others, were to carry out the strategy.

Q. Well, what four men? When you speak of the "four men," you mean the four committeemen?

A. That is right.

Q. Well, what four men? Thompson, Sherman, Lonnberg, and Olsen, is that right?

A. That is right.

Q. Do you remember any other persons who participated in this strategy committee?

A. I would rather not name them, because some of them are still working at Colgate-Palmolive-Peet's.

Q. Leave those persons out.

A. The five Stewards were included.

Q. Were included. Now, Mr. Lonnberg, had you ever been an officer of Local 6, CIO? [231]

A. I served two years on the Investigating Committee, one year of which I served as Chairman.

Q. Yes. And were you an active union member of the CIO? A. I was.

Q. And I suppose you were familiar with the policies of the Union? A. I was.

Q. Were you aware that the ILWU had

(Testimony of Harold R. Lonnberg.)

pledged that it would not tolerate any strikes or stoppages of work during the duration of the recent war?

A. That was a directive handed down by the Executive Board of the International, as I understand it.

Q. Well, you knew that it was the official action of the Union, did you not?

A. Well, that was what I knew, it was a directive down from the Executive Board.

Q. Well, you are not contending that you did not know that that was the official union policy, are you?

A. Well, the Executive Board evidently was the policy board.

Q. Uh huh. Are you intimating that you were opposed to that policy?

Mr. Rowell: Well, now, that is immaterial.

Mr. Royster: I object.

Trial Examiner Ruckel: Objection sustained.

Q. (By Mr. Edises): Now, you stated on the 25th of August, while you were in the plant with Mr. Harvey Howard and Mr. Luchsinger, you spoke to a number of employees, and that not only did employees talk to you but also foremen spoke to you; is that right? A. That is correct.

Q. And you very courteously declined to name the foremen, but I trust that you have no similar objection to telling us what you discussed with these foremen?

(Testimony of Harold R. Lonnberg.)

A. They asked us how things were going, and we informed them, "So far they looked fairly good."

Q. They looked fairly good. That seemed to make them happy?

Mr. Tobriner: Objection.

Trial Examiner Ruckel: Objection sustained.

Mr. Edises: No further questions.

Mr. Hecht: I have a couple of more questions.

Mr. Royster: Well, I guess I am entitled to have a second crack now on the redirect, am I not?

Trial Examiner Ruckel: You may examine.

Redirect Examination

By Mr. Royster:

Q. At the meeting in Mr. Railey's office on July 31, Mr. Lonnberg, did you see a telegram at that meeting?

A. It came in during that meeting. [233]

Q. And to whom was it delivered?

A. To Mr. Railey.

Q. Did Mr. Railey open the telegram?

A. I believe he did.

Q. Did you see the message?

A. No, I don't believe I did.

Q. Did he make any comment on the message to you or to the others there?

A. He commented that he had now received the telegram from the Welfare Employees Association.

Q. Had there been any prior conversation about such a telegram?

(Testimony of Harold R. Lonnberg.)

A. Brother Sherman had informed him of such telegram.

Q. Well, what had he told him about a telegram?

A. He told him that "If you haven't received a telegram yet, it will be forthcoming."

Q. And what telegram? Did he tell Mr. Railey what the telegram was about?

A. I believe he told Mr. Railey that it was notification of our severance with the Warehouse Union.

Mr. Hecht: Mr. Royster, may I suggest that if Mr. Sherman is available to testify that he probably could do a better job of it?

Mr. Royster: Mr. Sherman will be on. That is all I have. [234]

Recross-Examination

By Mr. Hecht:

Q. Mr. Lonnberg,—

Trial Examiner Ruckel (interposing): Are we through over on this side of the table?

Mr. Rowell: I am not sure. Just a moment.

No questions.

Q. (By Mr. Hecht): You attended this dinner meeting on July 26? A. I did.

Q. Do you know whether any minutes were taken of that meeting?

A. I don't believe there were.

Q. I believe you also attended the meeting of July 30? A. I did.

(Testimony of Harold R. Lonnberg.)

Q. Were you at the door like Mr. Olsen was?

A. I was not.

Q. You were on the floor, I take it, or on the platform?

A. I was over on the lefthand side of the building going in, on the raised platform.

Q. Do you know whether any reference was made at that meeting to minutes of the meeting of July 26?

A. There was not.

Q. Do you know whether the Chairman or the Recording Secretary of that meeting made any remarks—just answer the question “Yes” or “No”—with reference to questions of [235] racial discrimination?

A. Would you restate that question, please?

Q. Was anything stated from the platform on July 30 with reference to racial discrimination?

Mr. Rowell: That is objected to as utterly immaterial.

Mr. Royster: I will join the objection.

Trial Examiner Ruckel: Objection sustained.

Mr. Hecht: Mr. Examiner, may I have permission then to recall this witness after I put in my case? Certain matters have come within the Company's knowledge connected with the question I have asked, and if I may introduce that evidence by means of the Company's officers, but in that case I will have to recall——

Trial Examiner Ruckel (interposing): It may become relevant. Is this witness going to be around?

The Witness: I am working.

(Testimony of Harold R. Lonnberg.)

Trial Examiner Ruckel: You are working in the city?

The Witness: In Oakland, or in Berkeley, rather.

Mr. Edises: Perhaps counsel could make this witness his own witness just for the purpose of asking him——

Mr. Rowell: That doesn't make the question any more material.

Mr. Edises: It would be simply taking him out of turn, avoiding the necessity of recalling him.

Mr. Hecht: I would be glad to do that. [236]

Trial Examiner Ruckel: I think maybe it wouldn't be an issue in the case. You will have ample time to get in touch with him.

Mr. Rowell: He will be available.

Mr. Hecht: All right. Then another question, Mr. Lonnberg.

Q. (By Mr. Hecht): On August 25 you entered the plant at about noon, did you not?

A. I don't recall the exact time.

Q. You entered the plant together with a number of other employees that were going to work, did you not? A. No.

Q. You are certain of that? A. I am.

Q. You are certain that there was a watchman in that sentry office?

A. I am, because I spoke to him.

Q. And did the sentry, to your knowledge, know that you were no longer an employee?

(Testimony of Harold R. Lonnberg.)

A. I don't recall whether we mentioned it to him or not.

Q. And he may well have assumed that you were still an employee?

Mr. Tobriner: Objected to on the ground whether he did or not assume it is something that is entirely suppositious and calls for a conclusion.

Trial Examiner Ruckel: Objection sustained.

Q. (By Mr. Hecht): Do you know the name of the watchman?

Mr. Rowell: Do you want to take action against the watchman now, Mr. Hecht?

A. I would prefer not to name the man. He is still employed there.

Mr. Hecht: I don't think there is any harm in having the name of the watchman. After all, he knew him and he spoke to him, unless Mr. Lonnberg probably believes that it was wrongful to enter without registering, and that some harm may come to the watchman because Mr. Lonnberg did not comply with Company regulations.

Mr. Tobriner: Will those remarks of counsel please be stricken, imputing anything to Mr. Lonnberg?

Trial Examiner Ruckel: They may be stricken, but we cannot go on withholding names.

Mr. Rowell: We are advised that the watchman has since died, and, therefore, is beyond the reach of the company.

Mr. Hecht: We will exhume him.

(Testimony of Harold R. Lonnberg.)

Q. (By Mr. Hecht): So may we have the name of the watchman, please?

A. I don't know the man's full name. I believe his name was Otto.

Q. Otto. If I told you his name was Otto Lindberg, would you recognize the last name? [238]

A. I am not familiar with the man's last name.

Q. Were you wearing your badge?

A. No.

Mr. Hecht: That is all.

Mr. Rowell: Could I ask just one question?

Trial Examiner Ruckel: Go ahead.

Redirect Examination

By Mr. Rowell:

Q: Did you observe, and are you able to state with reasonable accuracy the number of people present at that July 30 meeting, Mr. Lonnberg?

A. At the July 30 meeting there was approximately 275.

Trial Examiner Ruckel: Any further questions?

Mr. Rowell: No further questions.

Mr. Edises: May I offer Intervener's 4? It has been identified.

Trial Examiner Ruckel: It may be received.

(Thereupon the document heretofore marked Intervener's Exhibit No. 4 for identification was received in evidence.)

Trial Examiner Ruckel: That is all.

(Witness excused.)

Trial Examiner Ruckel: Off the record.

(Remarks outside the record.)

Trial Examiner Ruckel: On the record. [239]

Mr. Hecht: May I recall Mr. Lonnberg for just a couple of questions?

HAROLD R. LONNBERG,

recalled as a witness by and on behalf of the National Labor Relations Board, having been previously sworn, was examined and testified further as follows:

Recross-Examination

By Mr. Hecht:

Q. Mr. Lonnberg, I think you have testified that you were a member of a Strategy Committee on behalf of the AF of L?

A. If it can be called that.

Q. Are you familiar with something called "Progress Reports," a leaflet?

A. I saw some of them.

Q. Do you know if they were prepared under the direction of the Strategy Committee?

A. Most of them were prepared under the direction of Mr. Harvey E. Howard, our representatives.

Q. And, speaking generally of the leaflets, were they distributed at the plant, do you know?

Mr. Rowell: If you know?

A. I did not know that they were distributed at the plant. I did not know anyone had distributed them.

Q. (By Mr. Hecht): Do you know what the purpose of these leaflets was then? [240]

Mr. Tobriner: I object on the ground the leaflets will speak for themselves.

(Testimony of Harold R. Lonnberg.)

Trial Examiner Ruckel: He may answer.

A. They were pursuant to an election to be held between the CIO and AF of L.

Q. (By Mr. Hecht): They were intended to be distributed, were they not, Mr. Lonnberg?

A. They were.

Mr. Tobriner: Objected to.

Q. (By Mr. Hecht): Did your Strategy Committee have any plan for the purposes of distributing these leaflets?

A. I didn't have any knowledge of it.

Q. You didn't. Do you know of anybody who has any knowledge of it?

A. If there was any such plan I believe Brother Luchsinger can answer.

Q. Brother Luchsinger can answer. Do you know who attended to the writing and mimeographing of these leaflets?

A. Mr. Harvey E. Howard.

Mr. Hecht: That is all.

Trial Examiner Ruckel: Further questions?

Mr. Royster: No further questions.

Trial Examiner Ruckel: That is all.

(Witness excused.)

We will recess until 1:30. [241]

(Whereupon, at 12:00 a. m. a recess was taken until 1:30 p. m. of the same day.) [242]

After Recess

(Whereupon, the hearing was resumed, pursuant to recess, at 1:30 p. m.)

Trial Examiner Ruckel: The hearing will be in order.

Mr. Royster: Mr. William Sherman.

WILLIAM SHERMAN,
called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Royster:

Q. State your name and address for the record, Mr. Sherman.

A. My name is William Sherman. I live at 1515 Kains Avenue, Berkeley.

Q. Are you at present employed?

A. Yes, I am.

Q. What is your employment?

A. I am working for the Yellow Cab Company in Oakland.

Q. You were employed by the respondent, were you not? A. That is true.

Q. And for what period of time?

A. From June 15, 1929, until August 4, 1945.

Q. Were you a member of the CIO during your employment with the Company? A. I was.

Q. For what period?

A. 1938 until the termination of my employment, I suppose.

(Testimony of William Sherman.)

Q. Mr. Sherman, did you attend a meeting of Colgate employees on July 30, 1945?

A. I did.

Q. And were you Chairman of that meeting?

A. I was.

Q. And you were selected as one of a committee of four to go to the respondent? A. I was.

Q. Do you know anything of a telegram sent to the ILWU on July 30, 1945?

A. I know of two telegrams, one sent to the ILWU, and one sent to the Colgate-Palmolive-Peet Company; Mr. Railey.

Q. Well, I show you Board's Exhibit 5 and ask you if that is one of the telegrams?

A. (Examining document): That is a copy of one of the telegrams.

Q. And I show you Board's Exhibit 6.

A. (Examining document.)

Q. Is that also a copy of the telegram sent to the company?

A. That is a copy. Pardon me. That is my recollection.

Q. Now, did you go to Mr. Railey's office on the morning of July 31, Mr. Sherman? A. Yes.

Mr. Hecht: May I see those, please?

Mr. Royster: Yes. I just had them typed up (handing documents).

Mr. Hecht: Yes.

Q. (By Mr. Royster): At this meeting in Mr. Railey's office on the morning of July 31, Mr. Sherman, was there any mention of a telegram?

(Testimony of William Sherman.)

A. Yes. I told Mr. Railey that we had sent a telegram and that he probably would receive it very shortly.

Q. And do you know whether or not he did receive it?

A. If I can recall correctly, he did receive it while we were in the meeting.

Q. Did he so announce to you?

A. Yes, he did.

Q. Did you have a telephone conversation with Mr. Altman on August 2? A. I did.

Q. And what was that conversation?

A. Well, my vacation was ending on August 4, and I still hadn't received any notice from the Union or company to the effect that my employment there was terminated, outside of verbal, they told me in the office, and I didn't know exactly what status I stood in as far as employment was concerned, and I asked him what I would do on August 4, whether I would return to work or not. And [245] he informed me that I was one of the ones to be suspended, and that there wouldn't be any use of me coming down there to be fired.

Q. Now, Mr. Sherman, I show you what purports to be a copy of a letter, and I will ask you if you received the original of it.

A. (Examining document): I can't say as to whether this is the original. However, I still have the original if it is——

(Testimony of William Sherman.)

Q. (Interposing): Do you have it with you?

A. Yes, I have.

Q. May I see it, please?

A. This letter is dated July 30, 1945. However, I didn't receive it prior to the telephone conversation I had with Mr. Altman.

Mr. Royster: I offer the writing in evidence as Board's Exhibit 11.

Mr. Rowell: No objection.

Mr. Hecht: No objection.

Trial Examiner Ruckel: It will be received.

(Thereupon, the document above referred to was marked Board's Exhibit 11 and received in evidence.)

Q. (By Mr. Royster): Did you become a member of the AF of L, Mr. Sherman? A. I did.

Q. That was subsequent to your suspension?

A. Following my suspension, yes.

Mr. Hecht: I beg your pardon?

(The answer referred to was read by the reporter.)

Mr. Royster: I think perhaps I better clear that a little bit.

Q. (By Mr. Royster): When do you understand that you were suspended?

A. Well, I understand that I was suspended as of July the—or August 2 when I called Mr. Altman.

Mr. Hecht: Mr. Royster,—

Mr. Royster: Yes.

Mr. Hecht: Might I suggest the best evidence

(Testimony of William Sherman.)

of Mr. Sherman's suspension might be the letter that is already in evidence with reference to the first nine men who were suspended?

Mr. Royster: That was a letter from the ILWU to the Company.

Mr. Hecht: Yes, and I think there has been testimony that the letter was referred to at the meeting of July 31.

Mr. Royster: The only point I had in mind here was in establishing a little bit more closely the date that he became a member of the AF of L. I should have done it without all this circumfusion.

Q. (By Mr. Royster): What date did you join the AF of L, [247] if you recall?

A. I think that I signed an application for the International Chemical Workers Union on August 3rd, on or about. I am not quite sure.

Q. Have you attempted to seek reinstatement of your employment at the respondent?

A. Well, I have twice, once by telephone, and another time, on August 17, with eight other people who were suspended.

Q. Did Sanford Moreau accompany you to the respondent's office on August 17? A. He did.

Q. And Clyde W. Haynes? A. He did.

Q. You have heard the testimony of the other witnesses in that respect, have you, Mr. Sherman?

A. Yes, I have.

Q. And do you have anything to state other than what they have said about the result of that meeting?

(Testimony of William Sherman.)

A. Well, to the best of my knowlewge, we went to the gate, and until the last whistle blew—at such time we went into Mr. Altman's office, and I think the conversation was, or the question was as to why were we there.

Trial Examiner Ruckel: Well, counsel asked you if your testimony would be about the same as that of the other [248] witnesses you heard?

The Witness: Approximately the same.

Trial Examiner Ruckel: Is there any material change that you care to make?

The Witness: Not of any value that I can think of, that is, the words that I would put it in might be a little different, what I would say.

Trial Examiner Ruckel: But in substance that is correct from your recollection, is that right?

The Witness: That is right.

Q. (By Mr. Royster): You acted as spokesmen for the group on this occasion, did you, Mr. Sherman? A. I did.

Mr. Royster: I believe that is all.

Q. (By Mr. Rowell): Mr. Sherman, at this meeting of July 30 did you make an attempt to count or estimate the number of employees there?

A. There was a count taken.

Q. Do you know the result of that count?

A. To the best of my knowledge it was between 270 and 275.

Q. All right. And as to the meeting of July 31,

(Testimony of William Sherman.)

was there a count or an estimate made of the number of employees present?

A. I think there was a count, but I can't recall just what the figures were. [249]

Q. Would you say it was over 200?

A. It was far over 200; at least 250, if I remember correctly.

Mr. Rowell: May we go off the record for just a moment, Mr. Examiner?

Trial Examiner Ruckel: Off the record.

(Remarks outside the record.)

Trial Examiner Ruckel: On the record.

Q. (By Mr. Rowell): You were on vacation during the time. What were the dates, the beginning and ending of your vacation?

A. Well, the vacation was to end August 4; it was the two weeks preceding August 4, whatever that date would fall on. I can't remember now.

Q. You were on vacation on July 30, 31 and August 1 and August 2?

A. I was, that is right.

Mr. Rowell: That is all I have. Nothing further.

Cross-Examination

By Mr. Hecht:

Q. Mr. Sherman, were you present at a dinner meeting of the Welfare Employees Association July 26? A. I was.

Q. Mr. Sherman, did you preside at that meeting, too? A. I did.

(Testimony of William Sherman.)

Q. Were there minutes of that meeting taken?

A. I don't think there was.

Q. You are certain there were no minutes?

A. I am not going to say I am certain, because I don't know exactly. Somebody might have been taking minutes that I didn't—not to my knowledge there were no minutes of the meeting.

Q. Do you know if there was anyone appointed to take minutes of that meeting? A. No, I don't.

Q. Do you know whether minutes purporting to be that of the meeting of July 26 were read at the meeting of July 30? A. There was not any that I know of.

Q. You were presiding at that meeting, too?

A. That is right.

Q. Will you tell me, if you know, who took the count of the employees at the meeting of July 30?

A. I think Lincoln Olsen was one of them. Who the other was, or the others were, I don't know.

Q. From whom did you receive your information?

A. I received it by a piece of paper that was put in front of me during the meeting.

Q. Have you that piece of paper?

A. No, I haven't.

Q. Do you know who gave you the piece of paper?

A. I think Lincoln Olsen brought it up. [251]

Q. Who took the count of the employees in the meeting on July 31? A. 31?

(Testimony of William Sherman.)

Q. Yes. A. Sorry, I don't recall.

Q. How did you get to know that there was that number of employees there?

A. Going by my recollection to a thing that happened six months ago. That is all I can say.

Q. You don't recall anybody giving you the information?

A. No. It was word of mouth if——

Q. Somebody told you?

A. That is right.

Q. So that all you have testified to as to the number of members present is something somebody, that you don't recall, told you?

A. That is right.

Q. Mr. Sherman, you have testified that you signed an application for membership in the Chemical Workers Union, A. F. of L., on or about August 2?

A. 2nd or 3rd, on or about. I don't know.

Q. Yes. When did you become a member?

Mr. Rowell: That is objected to. It is asking for the conclusion of the witness.

Mr. Royster: I object to it on the grounds of its [252] materiality.

Mr. Hecht: It is a preliminary question, Mr. Examiner.

Trial Examiner Ruckel: He may answer if he knows.

A. I think I have answered it already.

Q. (By Mr. Hecht): In other words, it is your

(Testimony of William Sherman.)

understanding of the rules of the A. F. of L. that upon filing your application you become a member?

A. Providing your application is acceptable.

Q. Yes. Was it acceptable and accepted?

A. It must have been. I am a member now.

Q. When did you become a member? Were you a member—let me put it this way: Were you a member on August 17? A. Yes.

Q. Mr. Sherman, you have been in the past an officer of the ILWU, haven't you?

A. Correct.

Q. And you are familiar with the ILWU constitution and by-laws?

A. Well, I probably was a great deal more familiar at the time I was an officer than I am right now.

Q. Yes. Well, you were quite familiar with those rules on August 17, let us say?

A. I would say "Quite," yes.

Q. Yes, sir. Mr. Sherman, as a former officer of the ILWU and as an employee of the Respondent, have you any [253] recollection or any memory of a contract dated July 9, 1941, between the Respondent and the ILWU? A. I have.

Mr. Hecht: May I have the Board's Exhibit 7?

(The document was handed to Mr. Hecht.)

Q. (By Mr. Hecht): I am showing you Board's Exhibit 7, a copy of the contract which I have just referred to. A. What section, please?

Q. Section 3 on the first page.

A. (Examining document): Yes.

(Testimony of William Sherman.)

Q. On August 17 you already knew that you had been—or, rather, withdrawn that.

On August 17, 1945, you knew that the Respondent had been notified by authorized officers of the ILWU that you were no longer a member in good standing of the ILWU?

A. I can't say that I knew it for certain. I don't know what conversations took place.

Q. Did you see the letter of July 30, or 31—I don't recall—1945, which Mr. Railey had in his office when that meeting was had in his office on July 31?

A. What letter are you referring to?

Q. From the ILWU to the Respondent?

A. No, I did not.

Q. At any rate, you were a member of the A. F. of L. on August 17? [254]

A. According to my recollection, yes.

Q. Did you think that as a member of the A. F. of L. you could obtain employment in a plant having a closed shop contract with the CIO?

Mr. Rowell: Now, wait a minute! That is certainly objectionable.

Mr. Royster: I will object.

Mr. Hecht: No, it isn't.

Trial Examiner Ruckel: Objection sustained.

Mr. Rowell: Mr. Examiner, when an official body of the United States government, namely, the United States Labor Relations Board, takes a charge from persons who are seeking reinstatement with the Company, issues a complaint on it, orders a hear-

(Testimony of William Sherman.)

ing on it, at least there is some prima facie evidence that it is at least conceivable that these people are entitled to employment at the Respondent's plant. Now, this continual questioning to try to show this is bad faith to request reinstatement——

Trial Examiner Ruckel: Why argue? Your objection has been sustained.

Q. (By Mr. Hecht): Mr. Sherman, I show you a photostatic copy of a letter dated July 31, 1945, on the stationery of the ILWU, addressed to Colgate-Palmolive-Peet Company.

Will you look at this copy and tell me whether you have seen the original or a copy before? [255]

A. (Examining Document): I have never seen it.

Q. Mr. Sherman, there has been some testimony here as to a Strategy Committee formed by persons who had formerly belonged to the Employees Welfare Association to carry on an election campaign for the AFL.

Did you hear of such a Strategy Board?

A. The term "Strategy" was never——

Q. (Interposing): Call it what you will.

A. It was never used, to my knowledge. There was a committee selected as contact people. That is the word we used.

Q. Were you here this morning when Mr. Lonnberg testified? A. I was.

Q. Did you hear Mr. Lonnberg's answers to my questions with reference to certain mimeographed leaflets?

(Testimony of William Sherman.)

A. I don't know what mimeographed leaflets you are referring to.

Q. I will show you one. I have one with your photograph, as a matter of fact.

A. I am familiar with what they call the progress report, yes.

Q. Can you tell us who prepared those reports?

A. Why, they were prepared in the office of Harvey Howard.

Q. You heard Mr. Lonnberg testify this morning that it was intended that they be distributed among the employees of the plant? [256]

A. Well, we didn't intend to use them for wall-paper.

Mr. Hecht: Will you answer my question?

Mr. Rowell: He has answered it.

Q. (By Mr. Hecht): In other words, you intended them to be distributed?

A. I didn't think—they were intended to be distributed, yes.

Q. Did you have any part in the distribution of those leaflets? A. I did not.

Q. You did not? A. No.

Q. Can you tell me who distributed those leaflets or attended to it? A. No.

Q. You don't know? A. I do not.

Q. Were they distributed to you?

A. Yes, I got a copy through the mail.

Q. You got copies through the mail?

A. That is right.

(Testimony of William Sherman.)

Q. Will you tell me if you got a copy of this one (handing document)?

A. (Examining document): I am sorry. I can't recall this particular one, or haven't got a copy of this particular [257] one.

Q. You will note below that it called for a meeting for August 8. A. That is right.

Q. Do you recall it now?

A. I still can't recall whether I got any knowledge of the meeting through that pamphlet or not.

Q. Would you say that it was one of those leaflets that was prepared at the office of Harvey Howard?

A. Oh, I think they were all prepared there.

Mr. Hecht: May we have this marked for identification as the Respondent's Exhibit 1?

Mr. Rowell: Well, I object to the introduction. The testimony has only been so far——

Mr. Hecht: Only for identification.

Mr. Rowell: Well, all right. I will withdraw the objection.

(Thereupon, the document above referred to was marked Respondent's Exhibit 1 for identification.)

Q. (By Mr. Hecht): I show you Respondent's Exhibit 1 for identification, dated August 7, 1945.

A. Yes.

Q. That was also prepared in Mr. Harvey Howard's office? A. That is right.

Mr. Hecht: May we have this marked Respondent's Exhibit [258] 2 for identification?

(Testimony of William Sherman.)

(Thereupon, the document above referred to was marked Respondent's Exhibit No. 2 for identification.)

Mr. Royster: I think we can stipulate, probably, that whatever you have there came from Mr. Howard's office.

Mr. Hecht: All right, if you wish to stipulate.

Mr. Royster: I would like to look at them.

Mr. Hecht: Before stipulating?

Mr. Royster: Yes. You might be mistaken as to where some of those came from.

Mr. Hecht: Well, the witness can identify them.

Q. (By Mr. Hecht): I show you another leaflet dated August 10, 1945.

A. (Examining document): I couldn't very well identify these without studying them line for line because I don't know—in fact, I might have to even compare them with some that I still have around the house to identify them as exactly the ones.

Q. You can't identify that one?

A. No, I can't identify this one, or any of them, that is, for a certainty.

Q. Have you changed your mind, Mr. Sherman—

Mr. Rowell (interposing): Well, now, wait a minute. Obviously he is being a very careful witness. You wouldn't be able to state that something was a copy of something you [259] saw six months ago word for word, necessarily.

(Testimony of William Sherman.)

Mr. Hecht: There are lots of things of which they have a very clear recollection that occurred six months ago, Mr. Rowell.

Mr. Edises: May we go off the record for a moment, Mr. Chairman?

Trial Examiner Ruckel: Off the record.

(Remarks outside the record.)

Trial Examiner Ruckel: On the record.

Better mark this Respondent's Exhibit 3 for identification.

(Thereupon, the document above referred to was marked Respondent's Exhibit No. 3 for identification.)

Trial Examiner Ruckel: We will recess for five minutes.

(A short recess was taken.)

Trial Examiner Ruckel: On the record.

Mr. Hecht: Mr. Examiner, it is stipulated by and between counsel for the Board, counsel for the complainants, counsel for the intervener, and counsel for the respondent that certain mimeographed leaflets, most of which bear the title, "Progress Reports," were mimeographed and prepared at the office of Harvey Howard——

Mr. Edises (interposing): May I interrupt? I don't think that is material. My understanding is that some of these things, not all of these things, were Howard's jobs. [260] There was collaboration and various people worked on them.

(Testimony of William Sherman.)

Mr. Hecht: I say that they were merely prepared and mimeographed at his office.

Mr. Royster: On behalf of the AF of L Union.

Mr. Edises: Why not put it that way?

Mr. Hecht: On behalf of the AF of L members for the purpose of being distributed among the employees of the respondent.

And if the Examiner wants, I will just read off the dates to be admitted in that order.

Trial Examiner Ruckel: Why don't you just have them marked, giving them the next succeeding number?

Mr. Hecht: 4 will be one dated September 12, 1945.

(Thereupon, the document above referred to was marked Respondent's Exhibit No. 4 for identification.)

Mr. Hecht: Another is September 15, 1945.

(Thereupon, the document above referred to was marked Respondent's Exhibit No. 5 for identification.)

Mr. Hecht: Another dated September 18, 1945.

(Thereupon, the document above referred to was marked Respondent's Exhibit No. 6 for identification.)

Mr. Hecht: The next is dated September 27, 1945.

(Thereupon, the document above referred to was marked Respondent's Exhibit No. 7 for identification.)

(Testimony of William Sherman.)

Mr. Hecht: The next is dated September 29, 1945. [261]

(Thereupon, the document above referred to was marked Respondent's Exhibit No. 8 for identification.)

Mr. Hecht: The next is dated October 2, 1945.

(Thereupon, the document above referred to was marked Respondent's Exhibit No. 9 for identification.)

Mr. Hecht: The next is dated October 9, 1945.

(Thereupon, the document above referred to was marked Respondent's Exhibit No. 10 for identification.)

Mr. Hecht: And October 11, 1945.

(Thereupon, the document above referred to was marked Respondent's Exhibit No. 11 for identification.)

Mr. Hecht: And October 12, 1945.

(Thereupon, the document above referred to was marked Respondent's Exhibit No. 12 for identification.)

Mr. Hecht: October 13, 1945.

(Thereupon, the document above referred to was marked Respondent's Exhibit No. 13 for identification.)

Mr. Hecht: October 15, 1945.

(Thereupon the document above referred to was marked Respondent's Exhibit No. 14 for identification.)

(Testimony of William Sherman.)

Mr. Hecht: And then there is a ballot without date which will be next in order.

(Thereupon the document above referred to was marked Respondent's Exhibit No. 15 for identification.)

Trial Examiner Ruckel: Is that stipulated to, gentlemen? [262]

Mr. Edises: So stipulated.

Mr. Rowell: So stipulated.

Mr. Royster: So stipulated.

Mr. Hecht: So stipulated.

Trial Examiner Ruckel: They will be received.

(Thereupon the documents heretofore marked Respondent's Exhibits Nos. 1 to 15 inclusive, for identification, were received in evidence.)

Trial Examiner Ruckel: Now, for my information, what materiality is claimed for these?

Mr. Hecht: May it please the Examiner it is charged in the complaint that we did not permit the distribution of AF of L circulars while permitting the distribution of CIO circulars throughout the plant.

Our answer pleads that innumerable leaflets emanating from both sides were distributed in the plant and that we in no wise interfered with the distribution of——

Mr. Rowell: Well, I presume the offer will be tied up with proof of distribution?

Mr. Hecht: Yes.

(Testimony of William Sherman.)

Trial Examiner Ruckel: At least these are the pamphlets referred to?

Mr. Hecht: Yes.

Q. (By Mr. Hecht): Mr. Sherman, you were, you said, [263] presiding at the meeting of October 30, 1945?

Mr. Royster: That is July 30.

Q. (By Mr. Hecht): July 30, 1945?

A. That is right.

Q. Was there anything stated by anybody on the platform having to do with the question of racial discrimination?

Mr. Rowell: That is objected to as utterly immaterial.

Mr. Royster: I object.

Trial Examiner Ruckel: Read the question, please.

(The question referred to was read by the reporter.)

Trial Examiner Ruckel: What date was this?

Mr. Hecht: July 30, 1945.

Trial Examiner Ruckel: Objection sustained. You may wish to recall him later. This may not be a factor in the case.

Mr. Hecht: All right. When do you expect to close, Mr. Royster?

Mr. Royster: I think Friday evening.

Mr. Hecht: And we will continue on Saturday, I take it, Mr. Examiner?

(Testimony of William Sherman.)

Trial Examiner Ruckel: Off the record.

(Remarks outside the record.)

Trial Examiner Ruckel: On the record.

Any further questions of this witness?

Mr. Hecht: No further questions on my part.

Mr. Rowell: Well, just a minute. I thought Mr. Edises wanted to ask——

Mr. Edises: Yes, I haven't questioned the witness yet.

Trial Examiner Ruckel: I am sorry.

Q. (By Mr. Edises): Mr. Sherman, you attended the meeting of July 30, did you not?

A. I did.

Q. That was held what time of day?

A. 4:15 I believe.

Q. 4:15. That was after you had received the rejection from the Company of your demand that the Stewards be put back? A. After, you say?

Q. After? A. No, it was before.

Q. Before? That is right.

Now, what was the purpose of that meeting?

A. Well, apparently the——

Q. (Interposing): Excuse me a minute. Just a second. The meeting was held after the Stewards had been suspended, correct?

A. That is right.

Q. Now, what was the purpose of the meeting?

A. Well, the purpose of the meeting, I presume, was to see if the entire group wanted to discontinue affiliation with [265] the ILWU, I believe.

Q. At least that was the question that the spon-

(Testimony of William Sherman.)

sors at the meeting intended to put to the persons present, is that correct? A. That is right.

Mr. Edises: Now, may I see those telegrams, please?

(The documents were handed to Mr. Edises.)

Q. (By Mr. Edises): I have this telegram of July 30 here, Board's Exhibit 5, sent to the Warehouse Union, and notifying the Union that 200 employees of the Company are hereby withdrawing from the Union and refuse to be further bound by any laws, rules or regulations of the Union.

Mr. Rowell: It says, "More than 200 employees," Mr. Edises.

Mr. Edises: I am sorry. "More than 200," I assure you, it was unintentional.

Mr. Rowell: Right.

Mr. Edises: After all, it is in the record.

Q. (By Mr. Edises): Now, with that telegram in mind, Mr. Sherman, I would like to ask you when you placed your own severance of affiliation from the ILWU?

Mr. Rowell: Well, now, that is objected to as calling for the legal conclusion of the witness.

Mr. Edises: Oh, Mr. Examiner,—

Mr. Rowell (Interposing): It is possible that this witness [266] may be maintaining a suit in court under the advice of counsel that the relationship has never been severed, and is still not severed.

Mr. Edises: Oh, Mr. Examiner—

Mr. Rowell (Interposing): Because the pro-

(Testimony of William Sherman.)

ceedings of the Union by which it was attempted to be severed were illegal.

Trial Examiner Ruckel: Well, there is a telegram which refers to a severance.

Mr. Edises: Certainly.

Trial Examiner Ruckel: Now, whether it was or not I think it is proper to ask as to what time he dates that severance.

Mr. Edises: That is right. In other words, I am only asking him his own case, and I refer to the telegram because I presume, at least common sense would indicate that that would establish the date, but perhaps I am wrong. That is why I wanted to ask the witness.

The Witness: Will you repeat the question, please?

Q. (By Mr. Edises): Well, the question was: When do you consider that your affiliation with ILWU was withdrawn?

Mr. Rowell: Well, we can stipulate the facts on it, can't we? I mean, after all, they did withdraw from the ILWU as a group and attempted to choose another bargaining agent, then all this stuff came up, and the question is still [267] a matter of law as to whether they actually were kicked out by the CIO Union, whether that was legal or not. It is a matter of law rather than—we have got the facts. Why ask his conclusion on it?

Mr. Edises: Well, I don't particularly care whether I get the testimony by the witness or by stipulation. Apparently Mr. Rowell is willing to

(Testimony of William Sherman.)

stipulate that the persons included in that telegram withdrew their affiliation from the ILWU as of the date that telegram bears. That is agreeable to me.

Mr. Rowell: Well, no, I am not ready to stipulate in any such fashion. I am ready to stipulate the facts.

Mr. Edises: I am sorry I misunderstood you.

Mr. Rowell: I am ready to stipulate the facts, not the legal conclusions.

Trial Examiner Ruckel: Well, let's get it from the witness:

One of the telegrams says, "You hereby withdraw," the other says, "Have withdrawn." Both telegrams are dated the same date.

What date did you have in mind as constituting your withdrawal so far as you are concerned, whether it was effective or not, from the CIO?

The Witness: If you are referring to my particular withdrawal from the CIO, it was not the intent of the telegram [268] to segregate individuals as discontinuing affiliations with the CIO. The intent of the telegram was that we were discontinuing the bargaining agency, forming another group.

Mr. Edises: Well, now, I ask that all this testimony as to the intent of the telegram go out. The intent of the telegram is to be determined from the telegram itself. My question was not as to what the intent of the telegram was because I can read; so can the Examiner read. What I wanted to know

(Testimony of William Sherman.)

was what this witness regarded as the date of his withdrawal from the ILWU.

Mr. Royster: Well, now, there seems to be a certain ambiguity.

Mr. Edises: Well, Mr. Chairman, taking first things first, I move to strike the testimony of this witness as to the intent of the telegram on the ground the telegram speaks for itself.

Mr. Royster: Mr. Examiner, if that be true——

Trial Examiner Ruckel (interposing): Well, not necessarily. Motion denied. He can tell what the telegram means, or construe——

Mr. Hecht (interposing): May I say, Mr. Examiner, I don't particularly care in so far as this affects the intervener and the complainants, but I don't think that the respondent should be bound by whatever was the intent of Mr. Sherman or the persons who caused that telegram to be [269] sent.

Mr. Edises: My motion to strike is denied, Mr. Examiner?

Trial Examiner Ruckel: Yes.

Q. (By Mr. Edises): Now, may I have an answer to the question, Mr. Sherman, of when you regarded your withdrawal from the ILWU as having become effective?

Mr. Rowell: Well, that is objected to. I must press this objection, Mr. Examiner, because it calls for a legal conclusion of the witness.

Trial Examiner Ruckel: No, the question was when he intended it to be effective. We are not

(Testimony of William Sherman.)

concerned whether it was or not. Perhaps he is still in there, for all I know.

Mr. Rowell: Well, all right, on that understanding I withdraw the objection.

Mr. Hecht: Mr. Examiner, before the answer is given, is it understood that none of his testimony is binding on the respondent as it cannot be bound by whatever the intent of Mr. Sherman was?

Mr. Rowell: That is not understood at all.

Trial Examiner Ruckel: It stands to reason that you are not bound by his answer.

Mr. Edises: He is not the respondent's witness.

Trial Examiner Ruckel: Rephrase your question.

Mr. Edises: All right. I will just rephrase it.

Q. (By Mr. Edises): When did you intend your withdrawal [270] from the ILWU to take effect?

A. Well, I might say that if they had intentions of throwing me out of the Union it would——

Q. (Interposing): No, just a minute, Mr. Sherman. I think the question was a simple one.

Trial Examiner Ruckel: With reference to the statement in your telegram when do you date your intention to withdraw from the Union? As of the date of the telegram or previously, or afterwards?

The Witness: I intended to withdraw from the Union when we became the recognized bargaining agent.

(Testimony of William Sherman.)

Q. (By Mr. Edises): Mr. Sherman, you sent this telegram, didn't you?

A. I did.

Q. Read it, read it aloud.

Mr. Rowell: Well, now, that is not necessary.

Mr. Edises: I submit I want to hear the witness read it aloud. It is cross-examination.

Trial Examiner Ruckel: You may read it aloud if you wish.

The Witness: I don't wish to if I have a choice.

Q. (By Mr. Edises): I will read it aloud. Will you please listen to this, Mr. Sherman?

This is to "International Warehousemen's Union, Local 6. [271]

"You are hereby notified that more than 200 employees of the Colgate-Palmolive-Peet Co., all being former members of your Union and being more than 50 per cent of such employees by action taken for such purpose, have and do hereby withdraw from your Union, sever connections and refuse to be further bound by any of the laws, rules, or regulations of the Constitution of I.L.W.U.

Signed: Employees Welfare Association.

By: Negotiating Committee,

E. H. Thompson,

W. P. Sherman."

Now, are you the W. P. Sherman referred to in this telegram? A. Right; correct.

(Testimony of William Sherman.)

Q. Yes. And did you understand the telegram as I just read it to you?

A. I think I understood it, yes.

Q. Yes. And were you playing tricks on the Union when you sent that telegram, or did you really mean it?

Mr. Rowell: Now,—

Mr. Royster (interposing): I object.

Mr. Rowell: That is an improper question.

Trial Examiner Ruckel: Objection sustained to the form of the question.

Q. (By Mr. Edises): Mr. Sherman, are any of these statements [272] contained in that telegram false?

A. (Examining document): Not to my knowledge, no.

Q. Now, Board's Exhibit 6 is the telegram sent to Colgate-Palmolive-Peet Company, Berkeley, California, stating:

"You are hereby notified of action taken by more than 200 employees of Colgate-Palmolive-Peet Co., all being former members of ILWU 1-6, and being more than 50 per cent of total employees have withdrawn and severed relations with ILWU-6 as collective bargaining agent."

Signed: "Employees Welfare Association, by Negotiating Committee, E. H. Thompson, William Sherman——"

You are the William Sherman referred to in this telegram?

A. Yes.

(Testimony of William Sherman.)

Q. And you sent this telegram on or about the date it bears, did you not? A. Right.

Q. Is there any statement in this telegram which is false? A. Not to my knowledge, no.

Q. Now, Mr. Sherman, you were one of those who waited on the Company and endeavored to get the Stewards back to work? A. Right.

Q. And following that the employees walked off the job? A. Correct.

Q. Following your failure to get them back?

A. Following that the work ceased at 12 o'clock, such as it [273] always has.

Q. Yes. Now, I would like to have you explain the circumstances of that cessation of work. What did you have to do with bringing it about, how did you go about it?

A. About the cessation of work?

Q. Yes. Now, I don't want to confuse you. There was a 21½-day stoppage of work, wasn't there? A. Right.

Q. Now, I would like to have you tell me just how that was accomplished in so far as you know?

A. As far as I know it was accomplished by a meeting that the employees chose to attend at 12 o'clock, and never returned.

Q. Well, what event preceded this continuous meeting which, so to speak, precipitated the meeting? In other words, there must have been some sign which led the employees to go out. Now, what was that, how was that determined?

A. There was no sign. You read the minutes of

(Testimony of William Sherman.)

the preceding meeting. The next step would be another meeting to find out what was to be done, to report what we had to say to these people as a result of our meeting with Railey.

Q. Well, now, after you left Mr. Railey's office, Mr. Sherman, you went back into the plant, didn't you?

A. We went back to Mr. Smith's office and were addressed again by Mr. Railey. [274]

Q. And then what did you do about notifying the employees that they were to go out?

A. I informed several employees that there was a meeting at noon.

Q. That was the continuous meeting, so-called; right?

A. That was the one that resulted in a continuous meeting, yes.

Q. Yes. How many employees did you so notify? A. Well, I am sorry; I don't remember.

Q. Well, roughly?

A. Oh, I would say perhaps one or so in each department.

Q. Well, now, what arrangement had you made? What arrangements had you agreed on with the other members of the committee about communicating to the employees the failure of your mission with Mr. Railey?

A. There was no arrangement made.

Q. Well, isn't it a fact that in some way the employees had to be notified that you had not suc-

(Testimony of William Sherman.)

ceeded so that they could take the action that had previously been agreed on?

A. I think they felt that we would come and tell them what action, regardless of whether it was in the plant or otherwise.

Q. Well, it is a fact, isn't it, that the employees were notified that the Stewards were not going to be put back to work? [275]

A. Certain employees were, yes.

Q. Well, you say "certain employees were"?

A. Right.

Q. Did you tell those employees to spread the word around to the others?

A. No, I don't think we did. We presumed that they probably would.

Q. Well, you were concerned to get as many employees out as you could, were you not?

A. Not necessarily, no.

Q. Oh, now, Mr. Sherman, are you testifying that you were not interested in getting—that you didn't care how many employees walked out in support of the Stewards?

A. No, I can't say that I particularly cared how many walked out in support of the Stewards, if you use that term.

Q. In other words, it was immaterial to you whether one walked out or 250 walked out? Is that what your testimony is?

A. I believe I can say it was immaterial.

Q. You didn't care, in other words, whether one walked out or 300 walked out? A. No.

(Testimony of William Sherman.)

Q. Uh huh. Now, after this—well, may I ask this: Were you surprised when some 250 walked out? A. I was, yes. [276]

Q. You didn't really think that any would walk out, did you?

A. I think, Mr. Edises—I don't know if this is an answer to your question or not; you know yourself how difficult it is to get people to a meeting, and especially during wartime. My surprise was that so many people was willing to attend the meeting.

Q. Of course, the fact is you did everything you could to get them to attend, did you not?

Mr. Rowell: That is objected to.

Trial Examiner Ruckel: You may answer.

A. I did everything I could to get them to attend, I notified everybody and left it to their own judgment.

Q. (By Mr. Edises): Yes. Now, after the stoppage began, I presume—I gathered from the testimony of Mr. Lonnberg that there was some kind of coordination of events, some kind of—I think I referred to it as a Strategy Committee, and he accepted that terminology. But was there some kind of coordination of the walkout?

Mr. Rowell: The terminology of counsel there is different from that of the witness. I merely make that observation.

The Witness: Will you repeat that?

Q. (By Mr. Edises): What was done to direct

(Testimony of William Sherman.)

and control and coordinate the employees on—I won't say the strike, [277] but in the walkout?

A. Well, the only thing that I can say to that is what has been testified to already, is that there was a contact committee set up to keep each other informed, and this group was to keep others informed. I believe that was the thing.

Q. What I am interested in is the direction of the thing. In other words, you had several of these continuous meetings, did you not? A. Right.

Q. And I presume you kept your people advised about the progress of events?

A. Probably did.

Q. And there had to be some way of deciding when you were going to go back and so on; that is true, isn't it? A. Correct.

Q. Now, Mr. Lonnberg testified that the group which assumed charge of directing this thing was the Committee of Four, plus the five Stewards, plus certain other persons whom he asked not to be required to name, and I didn't press him to name those persons, and I am not going to press you to name them. But I would like to know just what this Coordinating Committee did. I presume it must have done something with its time during this two and a half days, and I would like to know just what it did?

A. Well, of course, we were shopping around for a union [278] with a strong international. What I done mostly was to go shopping, so to speak, to

(Testimony of William Sherman.)

find out the satisfactory union to represent us.

Q. What else did you do?

A. Well, I presume I answered numerous phone calls from various people, wanting to know how things were progressing, and that is about all.

Q. The matter of the morale of the people out on strike, did you do anything about that? Did you visit them, for example, at their homes?

A. No, I don't think outside of Thompson that I did visit—Thompson and Lincoln Olsen, I don't think I visited any of them.

Q. Now, going back for a moment to the time of your visit to Mr. Railey to try to get the Stewards back, did you tell Mr. Railey of the action that the membership had taken, the resolution?

A. I think that a good part of the conversation centered on trying to persuade Mr. Railey to put the five Stewards to work outside the bargaining unit of the union.

Q. My question was whether you informed Mr. Railey of the resolution that the membership had adopted in regard to these five Stewards.

A. I don't think we gave him the exact words. I think that we requested in every manner that we knew to get the Stewards [279] back.

Q. Well, did you give him the substance of the resolution even though, perhaps, not the exact words?

A. We didn't threaten "no strike," if that is what you mean.

Q. Well, I am not asking you whether you

(Testimony of William Sherman.)

threatened a strike. Mr. Railey was informed, was he not, that the membership had given you authority, or the membership had——

A. (Interposing): Authorized?

Q. Let's not put it that way. ——had resolved that it was not going to return to work unless the Stewards returned to work?

A. Well, I don't think we did, frankly. I don't recall. It has been a long time ago.

Q. Well, now, you don't recall whether that was actually stated or not? A. No.

Q. That meeting had been an open meeting, hadn't it? All employees were entitled to be present? A. The meeting of the 30th?

Q. Yes. A. Yes.

Q. As a matter of fact, I believe some one of your colleagues testified that Mr. Railey was there when the membership took the vote?

A. He was. [280]

Q. So he would, of course, know?

A. That is right.

Q. Of the position of the members?

Mr. Rowell: Which would render it unnecessary for this Committee to advise him, Mr. Edises.

Mr. Edises: I do not care to engage in——

Trial Examiner Ruckel (interposing): The witness has answered.

Q. (By Mr. Edises): Mr. Sherman, I show you Respondent's Exhibit No. 15.

That is a sample ballot, and on the rear of the

(Testimony of William Sherman.)

ballot there are a number of pictures. You are included in one of these pictures, are you not?

A. Right.

Q. And the arrow that I draw represents you, does it not? A. Right.

Mr. Edises: Now, I will just, with the Examiner's permission, write "Sherman."

Trial Examiner Ruckel: Is there any objection?

Mr. Hecht: None.

Mr. Royster: No objection.

Mr. Rowell: Let me see it a moment, will you?

(The document was handed to Mr. Rowell.)

Mr. Rowell (examining document): No objection.

Q. (By Mr. Edises): Now, Mr. Sherman, did you have anything [281] at all to do with the preparation of these leaflets which are entitled "Progress Reports"? A. In what manner?

Q. Anything to do with their preparation? Did you help to write any of them, or edit any of them, or suggest the contents of any of them?

Mr. Rowell: I think that is immaterial, Mr. Examiner.

Trial Examiner Ruckel: He may answer.

A. Oh, I suppose I wrote some of the material that was used. However, I never directly wrote any of them.

Q. (By Mr. Edises): Yes. Can you identify any particular parts that——

(Testimony of William Sherman.)

A. (Interposing): I would rather not, because it would take time. I would have to go over them word for word, and I am not going to identify anything that I can't recall.

Q. No, I don't want you to identify anything you can't recall. I was just wondering if by glancing at some of the passages you might recall the authorship?

Mr. Rowell: He has testified that he participated in the preparation of some portions of those things. It is certainly not important to show which paragraphs he happened to dictate.

Trial Examiner Ruckel: Is that important?

Mr. Edises: I will pass that.

Q. (By Mr. Edises): Mr. Sherman, was there a publicity committee [282] or a leaflet committee of some kind that worked in the preparation of some of these leaflets?

A. I think—no, there was no particular designated committee, I believe.

Q. No designated committee? A. No.

Q. In general, would it be fair to say that the four committeemen and the five Stewards participated in the work of preparing these leaflets?

A. I really don't think that the five Stewards had anything to do with the preparation. Well, yes, one of them—that is, not the preparation, but something to do with the preparation of them, or something. I don't know.

Q. What?

(Testimony of William Sherman.)

A. Dave Luchsinger had more to do with that.

Q. With what?

A. With the carrying of them to the office, to the place where they were mimeographed, and so on.

Q. I am not referring to the physical preparation. I mean working on the contents, drafting them, and so on. Did any of the Stewards have anything to do with that?

A. I don't believe they did.

Q. How about the Committee of Four?

A. I don't think anybody outside of, maybe, one, had anything to do with the writing. However, I can't answer that. [283]

Q. And who was that one?

A. I think Thompson compiled some material that was not used.

Q. But these were the collective responsibility of all of the four on the committee, or the nine, or just——

A. (Interposing): It was not a laid out plan.

Q. It was not a laid out plan?

A. It was a random thing.

Q. But you never attempted in any way to deny that responsibility or authorship for these, that is, the A F of L did not?

A. I certainly deny authorship of those, yes.

Q. No, I mean the point I am making is there is no question that these were the official bulletins of your organization?

A. No question.

Mr. Rowell: He has already testified to that.

(Testimony of William Sherman.)

Q. (By Mr. Edises): Did you generally, Mr. Sherman, know the contents of these bulletins before they were distributed?

A. Some of them, and some of them not.

Q. Some of them you did and some of them you did not? A. Yes.

Q. Did you ever disassociate yourself in any way from any of the views or opinions expressed in these bulletins?

Mr. Royster: I will object to that, as to its materiality. [284]

Trial Examiner Ruckel: Objection sustained.

Q. (By Mr. Edises): Mr. Sherman, you were at one time Business Agent of the ILWU Local 6, were you not? A. Right.

Q. And under what circumstances did you cease to be a Business Agent?

Mr. Royster: I will object to the materiality again.

Trial Examiner Ruckel: He may answer.

A. I lost the election.

Q. (By Mr. Edises): You lost the election when?

A. Oh, I don't recall the month. I lost it in 1943, I believe, the latter part of 1943.

Mr. Edises: I think that is all.

Trial Examiner Ruckel: Any further questions by the Board?

(Testimony of William Sherman.)

Redirect Examination

By Mr. Rowell:

Q. Mr. Sherman, I believe you testified that the purpose of the meeting of July 30, to boil it down to a few words, was to see if the group wanted to discontinue with the ILWU as the bargaining representative? A. That is right.

Q. Did you have the advice of a lawyer in connection with how that was to be done?

A. Not at the time of the meeting, it was following the [285] meeting.

Mr. Edises: Well, now, I object to that as incompetent, irrelevant, and immaterial. What difference does it make?

Mr. Rowell: The question has already been answered.

Mr. Edises: Well, then, I move to strike, Mr. Examiner.

Trial Examiner Ruckel: It may be stricken.

Q. (By Mr. Rowell): Your purpose was to arrange a switch in the bargaining agent through the appropriate legal processes, is that correct?

Mr. Edises: Now, just a moment. I object to that.

Trial Examiner Ruckel: Objection sustained.

Mr. Edises: I was not permitted to ask questions along that line.

Q. (By Mr. Rowell): In regard to these telegrams, Board's Exhibits 5 and 6, did you have the

(Testimony of William Sherman.)

advice of a lawyer in connection with the preparation of those telegrams?

Mr. Edises: Same objection.

Trial Examiner Ruckel: Objection sustained.

Q. (By Mr. Rowell): Now, you testified as to the number of people that were at the July 30 meeting. I believe you said there was between 270 and 275.

Mr. Hecht: I beg your pardon. I don't mean to impute anything, but I think he testified that somebody told him that that number of people were there. [286]

Trial Examiner Ruckel: Well, it has been testified as a substantial majority. Isn't that satisfactory?

Mr. Rowell: No, your Honor, I don't think it is.

Mr. Edises: Even stipulated.

Mr. Rowell: I think if there were 270 out of 300 employees there that is immaterial, I would have let it stand, as it were, if Mr. Hecht hadn't considered it material to try and cut down the force of——

Trial Examiner Ruckel (interposing): Let's leave it. It doesn't make a particle of difference as far as this case goes whether it was one more than a majority, or 50 more than a majority.

I thought you were all satisfied with that yesterday?

Mr. Edises: We stipulated to it.

Mr. Rowell: I was satisfied until Mr. Hecht

(Testimony of William Sherman.)

tried to cut down the force of the testimony of the witness.

Mr. Hecht: I just wanted to know how he knew.

Mr. Rowell: Well, I want to ask one more question if the objection to it is sustained.

Q. (By Mr. Rowell): I will ask you, Mr. Sherman, as to whether the number of people present at the July 31 meeting was approximately the same as the number present at the July 30 meeting, or only slightly less.

A. I think that there was—it was about the same, if I recall. [287]

Mr. Rowell: I have no further questions.

Mr. Hecht: I have two more questions, I believe.

Recross-Examination

By Mr. Hecht:

Q. Under examination by Mr. Edises, Mr. Sherman, you started to say that the ILWU was about to throw you out? Or did I misunderstand you?

A. You misunderstood me.

Q. What were you going to say? Will you complete that statement?

Mr. Edises: It seems to me, if I may interpose here, the questions is so general it really calls for this witness to just volunteer whatever happens to come into his head.

Mr. Hecht: Well, I won't pursue it. That is all right.

(Testimony of William Sherman.)

May I have the exhibits which is the minutes of the meeting of July 30?

Mr. Royer: It is Intervener's 2.

(The document was handed to Mr. Hecht.)

Q. (By Mr. Hecht): Mr. Sherman, you testified that Mr. Railey was present at the time that the following motion was adopted, and I am reading from the minutes:

"Motion that we go back tomorrow morning pending settlement of Five Brothers Shop Stewards laid off by management at request of I.L.W.U. officials. If Shop Stewards don't work, nobody works. Carried unanimously."

Was Mr. Railey present when that resolution was [288] adopted?

A. There is either a misunderstanding there on our part, or my part. I don't believe he was there when that was adopted, that resolution.

Mr. Rowell: Maybe we had a mix-up. I think we will stipulate Mr. Railey was not at that July 30 meeting, as a matter of fact.

Isn't that correct?

Mr. Royster: That is my understanding.

Mr. Hecht: It was testified under examination by Mr. Edises that Mr. Railey was present when the resolution for the work stoppage was adopted.

Mr. Rowell: Well, let's clear up the confusion, if you wish, just by stipulation.

Mr. Hecht: Yes, it is stipulated that he was not there.

(Testimony of William Sherman.)

Mr. Rowell: That is right.

Mr. Royster: Agreed.

Mr. Hecht: No further questions.

Trial Examiner Ruckel: Any further questions?

Mr. Royster: None.

(Witness excused.)

Now, Mr. Examiner, I have Edwin Thompson and Dave Luchsinger present in the hearing room. Mr. Luchsinger was a Steward. Mr. Edwin Thompson was a member of the Negotiating Committee who sought the reinstatement of the [289] Stewards. They can testify to nothing except what has already been covered by other witnesses. However, they are present in the hearing room, and I offer them for the examination of any of the parties.

Trial Examiner Ruckel: Well, if they can't tell us anything additional, let us dispense with them.

Mr. Edises: I would simply ask a couple of things that I would like to establish from them, and, incidentally, I forgot to ask those things of Mr. Sherman.

Mr. Rowell: Let's recall Mr. Sherman then.

Trial Examiner Ruckel: Now, we are in this position. The Board has indicated it doesn't care to call them as its witnesses. Now, you have indicated if they were called you might be able to utilize some part of their testimony.

Let's take a brief recess and see if we can't stipulate. Recess for 10 minutes.

(A short recess was taken.)

Trial Examiner Ruckel: On the record.

Mr. Edises: The statement was made by counsel for the Board that he did not intend to call a couple of additional witnesses, and I stated that there were a couple of things I wanted to bring out, and we have now reached a stipulation which will eliminate the necessity of calling these witnesses.

Mr. Royster: Will you name the witnesses?

Mr. Edises: They are David Luchsinger, Edwin Thompson, Sanford Moreau, and Clyde Haynes.

Off the record.

Trial Examiner Ruckel: Off the record.

(Remarks outside the record.)

Trial Examiner Ruckel: On the record.

Mr. Edises: All right, this is limited to these four: the ILWU throughout the period World War II had bound itself and its membership to *reframe* from any strike activity during the war in the following terms: No, in substantially the following terms: A pledge to President Harry S. Truman and the nation: "On behalf of the entire membership of the International Longshoremen's & Warehousemen's Union we renew and give to President Harry S. Truman and the nation our solemn pledge that until the war is ended, with the unconditional surrender of Japan, we will not strike, stop work, or cease or slow production for any reason whatsoever.

"We reiterate that this is an unconditional pledge given in the knowledge that our first duty is

to our nation, and that despite provocation we must take no action that will imperil our nation or cause the prolongation of the war, or cause the unnecessary loss of so much as one Allied life.

“We further make the positive pledge that we will do everything in our power to shorten the war by lending [291] ourselves to intelligent solution of the manifold manpower problems and to the development of all possible means to speed production.”

This resolution was adopted unanimously June 29, 1945, by the ILWU Executive Board, and in substance is the same resolution which was the official policy of the Union throughout the entire war period.

It is stipulated between the parties to this proceeding that the four individuals just named had knowledge of this no-strike pledge at the time of the events referred to in the complaint.

Mr. Royster: So stipulated for the Board.

Mr. Rowell: So stipulated.

Mr. Hecht: So stipulated.

Mr. Royster and Mr. Rowell, I think so time ago you asked me for a stipulation with reference to the number of employees at the plant on July 30, 1945.

Mr. Rowell: Yes.

Mr. Hecht: At that time there were 313 employees.

Trial Examiner Ruckel: 313?

Mr. Hecht: 313 employees, including Assistant

Foremen but not Foremen, and not including 7 service men who were working there part time.

Mr. Royster: In other words, Mr. Hecht, the 313 were those included within the bargaining unit represented under [292] the contract by the ILWU?

Mr. Hecht: Well, I wouldn't want to go that far because we have, I think, one or two foremen who, despite their positions as foremen, are also Union members and are, apparently, represented by the ILWU. As a matter of fact, Mr. Wood has just informed me that we only know of one foreman who is a Union member that we are sure of.

Mr. Royster: Well, of course, we are confusing union membership here with inclusion in a bargaining unit. I don't know that this is any time to discuss that anyway.

Mr. Hecht: Well, isn't it sufficient for your purposes, though, the fact that there were 313?

Mr. Royster: Yes, it is.

Mr. Rowell: I think it is sufficient. We will accept the stipulation.

Mr. Royster: Accepted for the Board.

Mr. Edises: May I ask whether the parties will include Mr. Sherman in the stipulation just made as to knowledge of the no-strike pledge?

Mr. Rowell: Yes, we will include him in the stipulation.

Mr. Royster: We will include him.

Mr. Hecht: Another stipulation that may save time in the examination of the witnesses of the respondent, Mr. Royster, will it be stipulated that

the respondent was at the time that these events related in the complaint took [293] place engaged in the manufacture of glycerin, a product necessary to the conduct of the war?

Mr. Royster: I wonder if you would be willing to add to that stipulation that none of the employees who were working on any of the processes or on the glycerin processes were discharged, or sought to be suspended from membership by the ILWU?

Mr. Edises: I don't think that we could agree to any such stipulation because our information is that there was a substantial curtailment of production of war materials as a consequence of the walk-out.

Mr. Rowell: Well, the walkout is different than this last point.

Mr. Hecht: May we go off the record?

Trial Examiner Ruckel: Off the record.

(Remarks outside the record.)

Trial Examiner Ruckel: On the record.

Let the record note that there was no stipulation reached on the latter point.

Anything further?

Mr. Royster: Now, Mr. Hecht, I am not quite certain whether you had any question to pose to Mr. Luchsinger or not.

Mr. Hecht: Yes, of limited scope. I only want to refer him to his visit to the plant on August 5, 1945. [294]

Mr. Royster: All right, Mr. Luchsinger.

Mr. Hecht: And this will be considered cross-examination?

Mr. Royster: Oh, that is agreeable to me.

DAVE LUCHSINGER,

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Royster:

Q. Will you state your name and address for the record, Mr. Luchsinger?

A. Dave Luchsinger, 434 65th Street, Oakland.

Mr. Royster: The Board has no questions of Mr. Luchsinger.

Mr. Hecht: All right.

Cross-Examination

By Mr. Hecht:

Q. Mr. Luchsinger, it has been testified that you, in the company of Mr. Harvey and Mr. Harold Lonnberg, visited the Colgate Plant on August 25, 1945.

A. That is right, on or about that date.

Q. Yes. At that time you were not an employee of the company?

(Testimony of Dave Luchsinger.)

A. I was not working there at the time.

Q. Yes. Did you register at the gate before entering the plant? [295]

A. No, I did not. I talked to the watchman at the gate and he said to go right in.

Q. What did you say to the watchman at the gate?

A. Well, we walked out—we got out of the machine across the street, and we walked over to the watchman, and he was in the cabin there, a little doghouse, they call it, and we talked to him a while. I don't know just what words were spoken, and he said for us to go right in.

Q. Do you know whether the watchman knew that you were no longer working at the plant?

A. That I couldn't say, whether he knew. I think he knew we were out, but he didn't know whether—what else was—whether we were coming back or what.

Q. Did you have your badge on?

A. What badge?

Q. Your workman's badge, the one that was worn at Colgate?

A. I never had a badge. I never did walk in there with a badge. I ain't got one. I never did have one since I worked there.

Q. You never wore a badge?

A. I never wore one.

Q. Now, do you know of a certain sign that is over the gate, or near the gate?

A. I don't know. The gates were both wide open

(Testimony of Dave Luchsinger.)

when we walked in. I don't know if there was a sign on them or not. [296]

Q. It is on the side of the gate as you go in, Mr. Luchsinger?

A. I didn't look at the side. I didn't notice any sign at the gate.

Q. How many years had you been working at Colgate-Peet? A. A little over nine years.

Q. Mr. Luchsinger, the sign I have reference to reads as follows:

"By order of the United States Government, all persons entering this plant must register."

Have you ever seen such a sign?

A. Not to my knowledge. There might be one there, but I never—I don't know what it says there.

Q. All right. Mr. Luchsinger, will you tell me if you have any information on the subject, whether before or after August 25, 1945, you ever asked any executive or agent of the company for permission to enter the plant for the purposes of doing work on behalf of the AF of L?

The Witness: I didn't get that question.

Trial Examiner Ruckel: Read the question.

(The question referred to was read by the reporter.)

A. No, I haven't.

Q. (By Mr. Hecht): The answer is "No"?

A. "No."

Mr. Hecht: Off the record for a moment.

Trial Examiner Ruckel: Off the record.

(Testimony of Dave Luchsinger.)

(Remarks outside the record.) [297]

Trial Examiner Ruckel: On the record.

Mr. Hecht: It is stipulated by and between counsel for the Board, for the complainants, counsel for the intervener, and counsel for the respondent, that the witness and complainant, Mr. Luchsinger, if asked the same questions with reference to his application for reemployment at the plant, and with reference to the collective bargaining agreement dated July 9, 1945, would testify substantially in the same manner as have other witnesses, such as Mr. Sherman, Lonnberg, Marshall, and Olsen.

Mr. Royster: So stipulated by the Board, with a reservation, however, as to the materiality of such questions and the answers elicited.

Mr. Hecht: Very well.

Mr. Edises: So stipulated.

Mr. Rowell: Stipulated with the same reservations.

Mr. Hecht: Will that stipulation also go, Mr. Royster, to Mr. Haynes, Mr. Thompson, and who was the other man?

Mr. Royster: Moreau.

Mr. Hecht: And Moreau?

Mr. Royster: Yes, with the same reservation.

Mr. Rowell: Yes, likewise with the same reservation.

Mr. Edises: So stipulated.

Mr. Hecht: Very well.

Trial Examiner Ruckel: Anything further of the witness [298] then?

(Testimony of Dave Luchsinger.)

Mr. Rowell: Yes, I wanted to ask a question or two.

Redirect Examination

By Mr. Rowell:

Q. On August 25 when you went to the plant you talked with Mr. Carter there, isn't that right?

A. That is right.

Q. What did Mr. Carter tell you to do?

A. He told us we had to leave the plant.

Q. Did he tell you why?

A. Well, he says, "You are no longer employed here. You will have to get out," and he said he was—Mr. Altman and nobody was there, and he was taking over to see that we got out.

Q. Did he know what you were doing so far as activities on behalf of the AF of L?

A. I imagine he did; I imagine he did.

Mr. Hecht: I move to strike what the witness imagined.

Trial Examiner Ruckel: It may be stricken.

Q. (By Mr. Rowell): Had you asked him why Gleichman and Harrison were allowed to stay there on behalf of the CIO?

A. I didn't myself. I think Mr. Howard did.

Q. Yes. What was his answer to that?

A. Well, he says, "They are representing a union," that is what he thought they were, but he was going to go and find out whether they were or not. [299]

Q. Did Mr. Carter at any time tell you the

(Testimony of Dave Luchsinger.)

reason you had to leave was because you had not registered with the watchman when you came in?

A. No, he didn't say that. If he said that I never heard him say it to none of us.

Q. Do you remember him making any mention of registering with the watchman, or anything?

A. No.

Q. Did you ever register with the watchman at any other time when you went into the plant?

A. No, as long——

Mr. Hecht: It is not contended, Mr. Rowell, that employees have to register.

Q. (By Mr. Rowell): By the way, your status at the time, so far as you know, was that of an employee, or a suspended employee, or a discharged employee? Do you know?

A. (No response.)

Q. I am asking for your legal conclusion, I must admit.

A. I didn't get you.

Q. Do you know whether you, at the time of August 25 when you went to the plant, whether you were an employee, or a suspended employee, or a discharged employee?

Mr. Edises: Now, one moment. We will adopt Mr. Rowell's objection to that question.

Trial Examiner Ruckel: I will sustain counsel's objection. [300]

Mr. Rowell: No further questions.

Mr. Hecht: No further questions.

Mr. Royster: That is all.

Mr. Edises: I have no questions.

(Testimony of Dave Luchsinger.)

Mr. Hecht: Pardon me. I did want one more question.

Recross-Examination

By Mr. Hecht:

Q. Mr. Luchsinger, you were here present when these exhibits, these pamphlets, these Progress Reports were identified by Mr. Sherman?

A. I was sitting in.

Q. Yes. Did you have anything to do with supplying material for the editing of these Progress Reports? A. I did not.

Q. Did you have anything to do with the distribution of these reports?

A. I did some of them.

Q. Could you tell us how you distributed some?

A. I distributed some to the workers that worked in the plant that is out now, what got suspended on September 1.

Q. Yes. Did you distribute them by going to the gate and giving them to the men as they came out? A. No, I did not.

Q. Where did you distribute them?

A. I took them out to this fellow's home, where he lives.

Q. Did you have a mailing list? [301]

Mr. Rowell: That is immaterial, your Honor. The only question is whether they succeeded in distributing them at the plant.

Mr. Hecht: It is preliminary.

Trial Examiner Ruckel: You may answer.

(Testimony of Dave Luchsinger.)

A. Well, they did have a main list at the office down there. I think they did mail some of them out. I didn't have nothing to do with it.

Q. (By Mr. Hecht): You don't know how many names were in the mailing list, for instance?

A. I do not.

Q. Do you know whether anybody else distributed these leaflets in and about the plant?

A. Not to my knowledge, I don't.

Q. You don't know of anybody taking them to the plant? A. No.

Mr. Hecht: That is all.

Mr. Edises: Oh, just one thing.

Q. (By Mr. Edises): Mr. Luchsinger, were you present at the meeting of July 30 at the Finnish Brotherhood Hall? A. I was.

Q. And did you concur in the following motion: "Motion by Thompson that we withdraw from the C.I.O. and International Longshoremen and Warehousemen's Union, District No. 1, Local 6, form an independent union and seek affiliation [302] with another International. Motion seconded. Vote carried unanimously, in favor 205; opposed, none?"

A. I did.

Mr. Edises: That is all.

Trial Examiner Ruckel: Any further questions?

Mr. Royster: No further questions.

Trial Examiner Ruckel: That is all.

(Witness excused.)

Mr. Royster: Henry Hellbaum.

HENRY HELLBAUM,

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Royster:

Q. Will you state your name and address for the record, Mr. Hellbaum?

A. Henry Hellbaum is my name, and I now live at 944 Key Route Boulevard, Albany. That is a different address than you have there. I have moved since.

Q. What is your occupation now, Mr. Hellbaum?

A. General contractor and builder.

Q. You were employed by the respondent, were you not?

A. Yes.

Q. And for what period?

A. From about May 20, 1933, until August 31, '45. [303]

Mr. Hecht: May we go off the record just a moment, Mr. Examiner?

Trial Examiner Ruckel: Off the record.

(Remarks outside the record.)

Trial Examiner Ruckel: On the record.

Q. (By Mr. Royster): Were you a member of ILWU?

A. Yes.

Q. For how long?

A. From the time we were switched in there. I don't remember the exact date.

(Testimony of Henry Hellbaum.)

Q. Until the time you left the employment of the company?

A. That is right; that is correct.

Q. Did you become a member of the AF of L?

A. Yes.

Q. And do you recall about when that took place?

A. No, I don't. It was some time around August 30.

Q. Did you participate with other employees in a continuous meeting starting on July 31?

A. I did.

Trial Examiner Ruckel: We will recess for a couple of minutes.

(A short recess was taken.)

Trial Examiner Ruckel: On the record.

Q. (By Mr. Royster): With reference to this continuous meeting, when did you join the AF of L?

A. Well, it must have been some time prior—just a day or two prior to this meeting; possibly three or four days. I just don't remember.

Q. Was it about the time of the meeting?

A. About that time.

Q. Now, did you wear an AF of L button in the plant? A. I did.

Q. Did you wear it on your working clothes in plain sight? A. Yes.

Q. Did you distribute any literature for the AF of L? A. Yes.

(Testimony of Henry Hellbaum.)

Q. Did you solicit others to join the AF of L?

A. Yes, I did.

Q. Did you distribute any buttons to other employees?

A. I think I did, a few.

Q. Did you have a conversation with Mr. Wood?

A. Yes, sir.

Q. Along about the 8th of August?

A. Yes, sir.

Q. And where did this conversation take place?

A. In the "T.A. Warehouse."

Q. Is that the Toilet Articles Warehouse?

Mr. Hecht: I didn't hear that.

Q. (By Mr. Royster): Is that the Toilet Articles Warehouse? [305]

A. Yes, that is right.

Q. Was anyone present other than you and Mr. Wood when this conversation took place?

A. Well, there were people close.

Q. Within hearing?

A. Yes.

Q. Were those that were within hearing other employees in that department?

A. That is right.

Q. Can you name any of them who were within hearing?

A. Well, Ann Nicoletti was the girl's name that took the money at the window.

Q. Nicoletti?

Trial Examiner Ruckel: Is Nicoletti her name?

Q. (By Mr. Royster): Was it Ann Nicoletti?

A. That is who it would be, yes.

Q. Well, was it Ann Nicoletti?

A. Yes.

(Testimony of Henry Hellbaum.)

Trial Examiner Ruckel: Well, do you think she was in a position to hear what was said between you and Mr. Wood?

The Witness: Well, I wouldn't say as to that.

Q. (By Mr. Royster): What was the conversation?

A. Mr. Wood came to me and asked me if I was Henry Hellbaum. I said, "Yes," and he stated it had been brought to his attention that I was soliciting, or words to that [306] effect, in the interests of the AF of L, and he said since the company was supposed to be neutral he wished I wouldn't do that any more.

Q. Did you make any reply to that?

A. I said, "O.K."

Q. Now, did you have a conversation with Charles Grube about the 9th of August, 1945?

A. Yes.

Mr. Hecht: May I ask this one question off the record, please?

Trial Examiner Ruckel: Off the record.

(Remarks outside the record.)

Trial Examiner Ruckel: On the record.

Q. (By Mr. Royster): Where did this conversation take place?

A. In the basement of "A" Building, I believe. It is down where they make Crystal White Soap.

Q. Who was present other than Mr. Grube and you?

A. Well, Ed Bopp was present, and one man

(Testimony of Henry Hellbaum.)

who has since been named to me as a man by the name of Cunha and Andy Matson, and a *name* by the name of Beck. I don't know his first name—and a fellow that we call Frenchie Valla, I think is his last name.

Q. Would you have any idea how to spell that last name? A. V-a-l-l-a, I believe. [307]

Q. What was that conversation, what you said to Grube, if you said anything, and what he said to you?

A. I asked Grube if it was so that he had told these three men, Valla, Beck, and Andy Matson, that he would send them home if they didn't take the AF of L buttons off their clothes? And he gave me an evasive answer, and he said that I couldn't come into his department any more. I said, "Is that so?" He said, "Yes, you hinder my men, you are hindering my men from working." I said, "I am not talking to your men, I am talking to you. I am asking you a straightforward question. I want to know, "Did you do this?" He said, "*Your* damned right I did; I am not beating about the bush to anyone about it."

Mr. Hecht: Mr. Royster, before I make my motion, I will avoid making my motion if you will ask Mr. Hellbaum who told him that Charlie Grube had done these things.

Mr. Royster: Well, I was not going to ask the witness that because I assumed that is purely hearsay.

(Testimony of Henry Hellbaum.)

Mr. Hecht: Hearsay is admissible here. We have had even quintuple hearsay as far as——

Mr. Royster (interposing): You can ask him that question on your examination, Mr. Hecht.

Mr. Hecht: Then I move to strike that conversation with Grube because Mr. Hellbaum posed first the assumption that somebody had told him that Charlie Grube had said [308] something, whereupon he goes to Charlie Grube and inquires about the truth of it.

Trial Examiner Ruckel: It is what Mr. Grube says that is the crux of the matter. He said, to the effect, that he had told him that and would continue to do so, and words to that effect.

Isn't that the substance of Grube's answer as testified to by this witness?

Mr. Hecht: Well, I don't think it becomes material unless Grube actually did tell somebody else.

Trial Examiner Ruckel: On the contrary, I think it is immaterial what this witness heard. The only material thing is what Grube said.

Mr. Hecht: Well, it is same thing as if somebody were to ask me, "Have you swum the Golden Gate?" Actually I didn't swim the Golden Gate. I said, "Sure, and I will swim the Golden Gate any time I want."

Trial Examiner Ruckel: Well, rather it is this type of testimony: A foreman says that the Superintendent said to him that he was not going to permit any Union activity in the plant. Now, in fact, the Superintendent said no such thing, but the

(Testimony of Henry Hellbaum.)

statement in the mouth of the Foreman that the Superintendent did is intimidatory even though in fact the Superintendent did not.

Mr. Hecht: Is this a hypothetical case we are referring [309] to, some Superintendent of the respondent?

Trial Examiner Ruckel: No, not of the respondent at all. I was merely trying to draw a parallel with this, where it is not the truth or falsity of the purported statement that is in question but the lower supervisor's statement that the higher supervisor did, even though the statement was false. In other words, the repetition of it in the mouth of the lower supervisor. Well, here we don't know that. Here, while the original testimony is hearsay, it becomes the answer of the foreman himself, becomes material, which was that, "Yes, I did say that in effect." Probably both parallels are a little unparalleled in places.

Mr. Hecht: Well, may I have a formal ruling, then, on the motion to strike?

Trial Examiner Ruckel: Motion denied.

Q. (By Mr. Royster): Do you know Mr. Duarte? A. Yes.

Q. Do you know Mr. Gonick? A. Yes.

Q. Did you see either of these men in the respondent's plant during the month of August?

A. I did.

Q. How frequently?

A. Oh, quite often. However, I don't know just

(Testimony of Henry Hellbaum.)

how frequently. It varied so but they were there a number of [310] times.

Q. And what, if anything, did you see them do?

A. I saw them distribute some literature.

Q. What kind of literature? I mean, was it AF of L literature?

A. No, it was definitely CIO literature. They were also collecting dues at times.

Q. Now, did you come to the plant on the 31st day of August? A. I believe I did.

Q. And about what time of day?

A. About 7:30. Perhaps a little earlier.

Q. Did you enter the plant at that time?

A. No, I did not.

Q. And why were you prevented from entering?

A. I was stopped at the gateway by a number of men.

Q. Can you name anyone who stopped you?

A. Paul Heide was closest to me.

Q. And did he speak to you? A. Yes.

Q. What did he say?

A. He said I couldn't go in there.

Q. Did he tell you why he couldn't go in?

A. No, he didn't. He just wanted to see my book, and I handed it to him, and he didn't look at it. He asked my [311] name and I told him, "Henry Hellbaum." And he said that—oh, he asked for a letter that someone had for me, and when they produced the letter he handed it to me.

Q. Do you have that letter with you?

A. No, I don't.

(Testimony of Henry Hellbaum.)

Mr. Hecht: Mr. Examiner, at this point I will make a motion to strike the incident of August 31, his being stopped at the gate by Paul Heide, because there was no one representing the respondent present, and it cannot be in any way material to this proceeding.

Mr. Royster: You are too impatient, Mr. Hecht. If you would permit me to go on for a moment I will bring it to the respondent's knowledge.

Mr. Hecht: Oh, is that a preliminary question?

Q. (By Mr. Royster): Now, did you succeed in entering the plant on this day? A. Yes.

Q. And did you talk to Mr. Altman?

A. I did.

Q. And what was your conversation with Mr. Altman?

A. I asked Mr. Altman if he had given those men permission to keep us from entering their property, and he said, "Oh, that was immaterial, that was just a technicality."

Mr. Hecht: Just a moment.

I am going to move to strike this again. Mr. Altman [312] or no one else has control of the people outside the plant. Whatever Mr. Altman said to Mr. Hellbaum as to the rights of the parties outside of the premises of the respondent is not material to this proceeding, and I move to strike it.

Mr. Royster: Well, whether that be so or not the fact is, as the witness testified, that he was prevented from entering his place of employment where he had been coming for twelve years, and he brought

(Testimony of Henry Hellbaum.)

that to the attention of Mr. Altman, and this is what Mr. Altman told him.

Mr. Hecht: The respondent cannot be expected to police what happens outside of the plant, and I think the whole testimony is incompetent, irrelevant, and immaterial, and I move to strike it.

Mr. Ruckel: Well, did this happen outside the plant?

Mr. Hecht: It did.

Mr. Royster: It happened at the plant gate. The witness so testified.

The Witness: It happened inside, speaking to Mr. Altman. I was on the platform, the loading platform.

Trial Examiner Ruckel: But you were prevented from entering the plant gate?

The Witness: Yes.

Mr. Hecht: If he was prevented from entering the plant gate, what does that have to do with the respondent, if it was told to Mr. Altman or not. It is not material. [313]

Trial Examiner Ruckel: The respondent has control of the gate.

Mr. Hecht: Yes, but he was stopped outside. That is the testimony. We have no control of the sidewalks or of the street.

Trial Examiner Ruckel: Possibly, I don't get the picture.

Mr. Royster: As I understand, the testimony was he was prevented from entering the respondent's gate. I will put the question to him.

(Testimony of Henry Hellbaum.)

Mr. Hecht: If I understood the witness' testimony correctly, he testified that he was prevented from entering the premises. He was not prevented from entering——

Mr. Rowell (interposing): Mr. Hecht, the employers are fond of getting injunctions against people interfering at the gates.

Trial Examiner Ruckel: Will you clear that up?

Mr. Royster: Yes.

Q. (By Mr. Royster): You were stopped on the morning of August 31, Mr. Hellbaum?

A. That is right.

Q. Where were you stopped?

A. Just at the gate. The gate was wide open, and these men, I believe, were just inside the premises.

Trial Examiner Ruckel: And who were the men? [314]

A. Mr. Heide, and, oh—a number—one of the Business Agents was there; Gonick, I believe, and, oh, there must have been 15 or 20 men, many of whom I didn't know.

Q. (By Mr. Royster): Was Hack Gleichman there?

A. He was, but not right at that time.

Q. And it is your testimony that you were prevented from entering that gate?

A. That is right.

Q. By these men?

A. They told me I couldn't go in there.

(Testimony of Henry Hellbaum.)

Mr. Hecht: May I have that date again? August 31?

Mr. Royster: Yes.

Mr. Hecht: May I call your attention to the fact it is claimed that this man was removed from his employment on August 30.

Trial Examiner Ruckel: Yes. I suppose your contention is that he should have been permitted to enter because others were distributing literature and seeking support of the——

Mr. Royster (interposing): No, Mr. Examiner. He was an employee, as far as he knew. I better ask the witness.

Q. (By Mr. Royster): Why did you come to the plant on August 31?

A. Well, I came to report for work.

Q. Had you been informed that you were discharged, or that for any reason you were not expected at work that day? [315]

A. I had not.

Q. Had you worked the previous day?

A. I did.

Mr. Hecht: Again, Mr. Royster, may we have explained to us, since it is somewhat of a surprise to us, why it is claimed in this complaint that the man was discharged on August 30?

Mr. Royster: Well, I don't know that you are entitled to an explanation of that at this time, but I will say this: that it is based upon information given by the company, and the fact is that the last day that he worked was August 30.

(Testimony of Henry Hellbaum.)

Mr. Hecht: Well, Mr. Examiner, I think that this is not within the issues. It is claimed in the complaint this man was discharged on August 30, 1945.

Mr. Royster: If for no other reason, the fact that the complaint alleges on or about August 30, 1945, why this is——

Mr. Hecht (interposing): I don't think it does that.

Mr. Royster: Oh, well, it does. You read it.

Mr. Hecht (examining document): That is right. It does claim "on and about."

My apology to you, sir.

Trial Examiner Ruckel: I am going to let it stand for what it is worth.

Q. (By Mr. Royster): You testified you spoke to Mr. Altman? [316] A. Yes, sir.

Q. And you testified as to what Mr. Altman said to you? A. Yes, sir.

Q. Now, what did you do then?

A. Stood around the gate for some time and conversed with others that were kept out at the same time, weren't permitted to enter.

Q. Did you have any further conversation with any of the ILWU representatives who were standing there?

A. Yes. A man came up to me and——

Q. (Interposing): Who?

A. I learned afterwards it was Hack Gleichman. I didn't know the man at that time.

Q. Very well.

(Testimony of Henry Hellbaum.)

A. And when he learned my name he says, "We know you. You are a Nazi," he says.

Q. Now, have you ever returned to the respondent's plant to work?

A. I went in the back gate; it was open. There was some general contractors working there and we always, or nearly always, when the gate was open, went in the back way. I worked in the boiler room. And I was escorted out by the foreman on the job.

Q. When did this take place?

A. During the time we were out at this meeting.

Q. Oh, this was prior to the time you were stopped at the gate? A. Later.

Q. You were stopped at the gate, Mr. Hellbaum, on the 31st of August, is that not so?

A. That is right.

Q. The continuous meeting——

A. (Interposing): Oh, yes. It was prior. I beg your pardon. It was prior. Sure it was.

Q. Well, now, will you tell me why you went into the plant during the time of this continuous meeting?

A. Well, when we went out to the meeting Mr. Sellers approached me, who is the Plant Engineer, and he asked me how much steam we were going to give them, and I told him, "Enough to man the fire pumps, or one boiler." And I came back to see if other boilers had been put on, that they were giving more steam.

Q. And did you see Mr. Sellers then?

A. No, I did not.

(Testimony of Henry Hellbaum.)

Q. And who did you see?

A. The Foreman in that department, Ernest Martinez.

Q. And you testified Martinez escorted you from the plant?

A. That is right.

Mr. Royster: I think that is all.

Mr. Hecht: Mr. Examiner, I move to strike this incident [318] involving Sellers and Martinez. I do not know what bearing it has on the issues.

Trial Examiner Ruckel: Can you tell us what bearing it has?

Mr. Royster: I'm afraid I can't, Mr. Examiner.

Trial Examiner Ruckel: What?

Mr. Royster: I'm afraid I can't.

Mr. Rowell: That obviously came in by volunteer testimony when the witness misunderstood the question.

Mr. Royster: I hadn't planned to take that testimony from the witness. I just explored it to see what it was. I don't know what bearing it has on the case.

Mr. Hecht: Mr. Examiner, now from the testimony of the witness as to what occurred on August 31 it appears that there was something in the semblance of a picket line in or about the gate of the respondent. It is impossible for the respondent (I think the Examiner will take judicial notice of the fact) to get an injunction, mandatory or otherwise, against a picket line at a moment's notice. There is nothing that brings home this picket line that prevented Mr. Hellbaum from entering the plant to

(Testimony of Henry Hellbaum.)

Mr. Altman, and since there is no testimony of similar incidents occurring after August 30 I move to strike on the ground that it has no bearing whatsoever to the issues of this proceeding.

Trial Examiner Ruckel: Well, it seems pretty remote. [319]

Do you expect to tie it up with other similar——

Mr. Royster (interposing): Well, I will show, Mr. Examiner, by other witnesses, that there was a picket line, as Mr. Hecht characterizes it, at the gate of this plant for the purpose of selecting certain individuals to prevent them from entering the respondent's premises.

Mr. Hecht: How is that brought home to us?

Mr. Royster: That thereafter some of them were discharged, and some of them were not permitted to go to work at all any more. That was the time that these fellows found out that they had no jobs.

Trial Examiner Ruckel: You mean you expect to tie that in with the responsibility of the respondent?

Mr. Royster: Yes, I will.

Mr. Hecht: You will tie it up?

Mr. Royster: Possibly, not as to this individual but as to others, yes.

Mr. Hecht: Well, subject to a motion to strike if Mr. Royster fails to further connect it with the respondent, Mr. Examiner.

Trial Examiner Ruckel: Yes, sir.

Mr. Rowell: Well, now, wait a minute. Even that is going a little too far in the way of ruling,

(Testimony of Henry Hellbaum.)

Mr. Examiner. One of the defenses in this case interposed particularly by the CIO Union, which isn't supposed to be interposing any [320] defenses, is that these people were discharged, or were suspended by the Union, and then discharged by the Company because they went on strike. Now, this evidence all tends to show——

Mr. Hecht (interposing): Now, Mr. Examiner——

Mr. Rowell (interposing): Now, wait a minute. I haven't finished my statement.

This evidence all tends to show that in fact the reason was that they were wearing AF of L buttons, that they were active on behalf of the AF of L, and that was the true reason. Therefore, whether this is tied up directly to the company or not it is highly material to the case.

Mr. Hecht: If you will keep track of the dates——

Trial Examiner Ruckel (interposing): At least I will entertain the motion to strike.

Mr. Royster: That is what I understood your ruling to be, Mr. Examiner.

Mr. Hecht: In order to keep the record straight, may it be borne in mind and in memory that the work stoppage referred to by Mr. Edises and myself in the course of this proceeding was the work stoppage that took place from noon, July 31, to some time on August 3, 1945, and it has no reference to any work stoppage on or about August 30, 1945.

(Testimony of Henry Hellbaum.)

Mr. Rowell: True enough.

Mr. Royster: Certainly. [321]

Mr. Hecht: All right.

Mr. Royster: I never thought otherwise.

Trial Examiner Ruckel: Are there any further questions?

Mr. Royster: No further questions.

Mr. Rowell: Yes, I think so.

Q. (By Mr. Rowell): Mr. Hellbaum, when you tried to get in the plant that day, August 31, was your book paid up in the CIO Union?

A. It was.

Mr. Rowell: I have nothing further.

Cross-Examination

Q. (By Mr. Hecht): Mr. Hellbaum, what was your employment at the respondent's plant?

A. Boiler maintenance man.

Q. Were you working at your job of boiler maintenance man on August 9? A. Yes.

Q. Were you working at your job of boiler maintenance man on August 8? A. Yes.

Q. In that case, what were you doing in the Toilet Articles Warehouse on that date, Mr. Hellbaum?

Mr. Royster: Objection, unless the company proposes to show that this man was discharged for failure to attend to his duties. [322]

Mr. Hecht: Oh, no.

Trial Examiner Ruckel: He may answer.

Mr. Royster: Merely cluttering up the record.

(Testimony of Henry Hellbaum.)

A. It was part of our work to attend to all traps throughout the plant, steam traps, as well as all pumps, the repair and maintenance of pumps throughout the plant, and we worked in all departments as far as repair work was concerned.

Q. (By Mr. Hecht): So that you were combining a bit of electioneering together with your job of attending to traps?

A. Well, I wouldn't say that.

Q. Wasn't it your testimony that you were stopped by Mr. Wood and told to—within distance of Ann Nicoletti, and told to do no more electioneering because the company was taking a neutral position?

A. I was in the warehouse for the purpose of buying a few toilet articles at that time.

Q. So that you were doing no electioneering at that time? A. I was not.

Q. You were not doing any electioneering, so that without any provocation whatsoever Mr. Wood came to you and said, "You must not do any more electioneering?"

Mr. Rowell: Object to the form of the question, "Without any provocation whatsoever." That doesn't—

Q. (By Mr. Hecht): Let us say without you being seen or heard by Mr. Wood doing any electioneering he voluntarily [323] came and made that statement to you?

Mr. Rowell: That doesn't represent the testi-

(Testimony of Henry Hellbaum.)

mony of the witness. Object to the form of the question.

Trial Examiner Ruckel: Objection sustained. I think it is argumentative.

Q. (By Mr. Hecht): Well, why did Mr. Wood say that to you?

Mr. Rowell: He doesn't know. Or do you know?

Q. (By Mr. Hecht): If you know.

A. I don't know.

Q. So your testimony is out of a clear blue sky Mr. Wood told you to stop electioneering?

Mr. Rowell: That is objected to. It is not the testimony of the witness.

Mr. Edises: It is cross-examination.

Trial Examiner Ruckel: Objection sustained.

Q. (By Mr. Hecht): On August 9 what were you doing in the basement where Charlie Grube is the foreman?

A. I went to look after some traps.

Q. And while combining your duties of inspecting steam traps you engaged in this conversation with Grube?

A. It was later in the day that I engaged——

Q. (Interposing): What were you doing there later in the day? Were you on company time then?

A. I had been asked to go down. I was appointed as one of the committee. [324]

Q. On company time?

Mr. Rowell: Well, now, Mr. Examiner, that has gone on too far. Mr. Royster's objection was a good one, and furthermore, unless Mr. Hecht intends to

(Testimony of Henry Hellbaum.)

show that no electioneering was allowed by anybody on company time, and none of the employees were allowed to leave their jobs for conversational purposes of any kind, it is wholly immaterial. Everybody in the plant was doing that.

Mr. Hecht: I submit it is material, Mr. Examiner.

Trial Examiner Ruckel: You may answer.

A. I did do that on company time.

Q. (By Mr. Hecht): Isn't it a fact that you were addressing all the men who were in Charlie Grube's department, that you took six men from their work to address them on behalf of the AF of L? A. I did not.

Q. How many men did you take off their work?

A. I didn't take any men off their work.

Q. You addressed them while they were working, did you not?

A. When I had gone through that morning three of the men saw me go by the door, and they stopped me and told me that Chuck Grube had said this to them.

Q. Yes.

A. I told them when I had more time I would look into [325] it. There were often times when we weren't too busy in our jobs, and other times that we were very busy, and at a leisure time I looked up Chuck Grube.

Q. And you didn't look up anybody else but Charlie Grube at that time? You merely went to

(Testimony of Henry Hellbaum.)

make this inquiry from Charlie Grube, is that correct? A. That is right.

Q. You did not engage in any other electioneering at that time? A. I did not.

Mr. Hecht: That is all.

Trial Examiner Ruckel: Any further questions?

Mr. Edises: I have a few questions.

Q. (By Mr. Edises): Have you got your ILWU dues book with you, Mr. Hellbaum?

A. No, I don't happen to have. I am sorry.

Q. Do you have it available somewhere?

A. I do have it at home.

Q. Will you be good enough to bring it with you tomorrow?

Mr. Rowell: Well, if he is coming back. Couldn't he mail it to the Board in case it is material? I don't know, but there is a process for him to get it here without personally appearing.

Mr. Edises: I don't care how it is done.

Mr. Royster: Do you want to see his dues book?

Mr. Edises: Yes.

Mr. Royster: I will ask the witness now if he will mail it to me so that I may show it to you.

The Witness: I will, yes.

Mr. Edises: All right.

Mr. Hecht: Mr. Edises, I have one more question of this witness.

Mr. Edises: Go ahead.

Q. (By Mr. Hecht): Mr. Hellbaum, did you attend the so-called trial—that is what it has been

(Testimony of Henry Hellbaum.)

referred to—I don't know whether it was one or not—before a committee of the ILWU on December 17, 1945?

A. I did not attend the trial. I was present before the trial.

Q. You were present before the trial?

A. Yes.

Q. And you were asked whether certain charges made against you were true or not?

A. We were given a sheet of paper to read, yes.

Q. And you were there supposedly to stand trial?

A. That is right.

Q. And you walked out?

A. That is right.

Mr. Hecht: That is all.

Q. (By Mr. Edises): Mr. Hellbaum, did you take part in the [327] meeting of July 30?

A. Yes.

Q. I will read you Paragraph 2. It states: "Motion by Thompson that we withdraw from the C.I.O. and International Longshoremen's & Warehousemen's Union, District 1, Local 6, form an independent union, and seek affiliation with another International. Motion seconded. Vote carried unanimously, in favor 205, opposed none."

Did you concur in that resolution?

A. Perhaps. I don't remember.

Q. You were present at the meeting?

A. I believe I was, yes.

Q. And you went along with the resolutions that were made, did you not?

(Testimony of Henry Hellbaum.)

A. I don't always take part in resolutions, seldom do, either way.

Q. Well, but did you abstain from voting on that?

A. I probably did, but I wouldn't say for sure.

Q. You mean you probably voted?

A. I probably abstained from voting.

Trial Examiner Ruckel: Probably abstained.

Q. (By Mr. Edises): You probably abstained from voting?

A. I seldom vote, I just stated.

Q. I see. Did you dissent from that resolution?

A. I did not. [328]

Q. You participated in the work stoppage, did you not? A. Yes.

Q. Now, Paragraph 3 reads: "Motion that we go back to work tomorrow morning pending settlement of 5 Brothers Shop Stewards laid off by management at request of I.L.W.U. officials. If Shop Stewards don't work, nobody works. Carried unanimously.

Did you concur in that resolution?

A. I did.

Q. Now, you were aware, were you not, that these telegrams, which are Board's Exhibits 5 and 6, were agreed to be sent to the Union and to the company?

A. (Examining documents) I don't seem to remember much about, or anything about the telegrams.

Q. Do you recall the discussion of sending such telegram?

(Testimony of Henry Hellbaum.)

A. Just vaguely in my mind, that there was a discussion about telegrams.

Q. Yes. Well, Mr. Hellbaum, did you in any way oppose any of the actions taken at that meeting? A. I don't believe I did.

Q. When did you join the AF of L? Did you say when?

A. Oh, I don't remember exactly. It was just prior to these meetings.

Q. When did you join the Employees Welfare Association?

A. Well, rather we joined the Welfare Association first, the [329] first meeting, perhaps. I don't even remember for sure.

Q. The July 30 meeting was the first meeting of the Employees Welfare Association, was it not?

A. As far as I know.

Q. Had you been in the habit of attending your union meetings while you were an I.L.W.U. member?

A. We had the privilege of attending the machinists' meeting if we preferred, and usually we went there, all the maintenance men.

Q. But you were a member of the ILWU?

A. That is right.

Q. Did you know that the ILWU had adopted a no-strike pledge during the war?

A. No, I can't say that I was aware of that.

Q. Let me see if I understand you correctly, Mr. Hellbaum. You understand now that you are on the witness stand under oath?

(Testimony of Henry Hellbaum.)

A. That is right.

Q. And do I understand you to say that you did not know that the International Longshoremen's & Warehousemen's Union had taken a pledge, adopted a pledge against striking during the war?

A. I repeat that I don't believe I knew that. I never read their literature.

Q. Is your recollection of the other things that you have [330] testified to about as good as your recollection of this later incident—

Mr. Rowell (interposing): Well, now, that is a favorite question of trial lawyers.

Mr. Edises: I submit I should at least have the courtesy of being permitted to finish my question before I am interrupted.

Mr. Rowel: The question is so familiar to trial lawyers.

Trial Examiner Ruckel: Just a moment. Let counsel finish his question.

Mr. Edises: Mr. Examiner, may I be permitted to have the privilege of finishing my question?

Trial Examiner Ruckel: I said finish your question.

Mr. Edises: Thank you. Now, I would like to have the question read, please, without interruption.

(The question referred to was read by the reporter.)

Mr. Rowell: That is objected to, Mr. Examiner.

(Testimony of Henry Hellbaum.)

Trial Examiner Ruckel: Finish your question. Did you finish your question?

Mr. Edises: That is the question. In other words, it goes to his credibility.

Trial Examiner Ruckel: Objection sustained.

Q. (By Mr. Edises): Did you ever hear of a newspaper called the ILWU "Dispatcher"? [331]

A. I have.

Q. As a union member you received a subscription to that, did you not? A. I did.

Q. Did you read the newspaper?

A. I did not.

Q. You did not read it. Do you know who the officers of the ILWU were at that time?

A. I knew some of them.

Q. Do you know who the President was?

A. I believe his name is Lynden.

Q. Arthur Lynden?

A. I don't know him first name.

Q. When Mr. Gleichman called you a Nazi, did you deny that?

Mr. Rowell: That is objected to. That is wholly immaterial.

Trial Examiner Ruckel: Objection sustained.

Mr. Edises: I submit it was asked on direct, and besides, Mr. Examiner, it is a well-known principle of law that if a witness is accused of being something and makes no immediate denial, there is an inference to be drawn as to the accuracy of the statement. It is true in negligence cases. I see no

(Testimony of Henry Hellbaum.)

reason why it shouldn't be true in a proceeding like this. [332]

Mr. Rowell: He was not asked that question on direct. He was asked what the conversations were.

Trial Examiner Ruckel: Let's ask if there was any further conversation along that line.

Q. (By Mr. Edises): After Mr. Gleichman accused you of being a Nazi, was there any further conversation?

The Witness: Will you repeat that, please?

Mr. Edises: Will you read the question, please?

(The question referred to was read by the reporter.)

A. Yes.

Q. (By Mr. Edises): Did you deny the accusation? A. I did not.

Mr. Edises: That is all.

Mr. Hecht: Mr. Examiner, I don't recall this Nazi name-calling incident, and, as I recall the testimony, when Mr. Gleichman was talking with Mr. Hellbaum there was nobody representative of the company present.

Trial Examiner Ruckel: That is correct.

Mr. Hecht: So I move to strike it.

Trial Examiner Ruckel: Motion denied. Certainly it doesn't show the company to have been any part of the conversation.

Mr. Hecht: It is in there for whatever it is worth then?

Trial Examiner Ruckel: That is correct. For whatever it [333] is worth.

Mr. Rowell: Well, I submit it isn't worth very much.

Trial Examiner Ruckel: Any further questions of the witness? (No response.)

You have made some reference, I think, to the collection of dues when Mr. Royster was questioning you.

Do you recall what that was?

The Witness: (Affirmative nod.)

Trial Examiner Ruckel: What was your testimony on that?

The Witness: I believe I said I did collect some dues.

Trial Examiner Ruckel: That is while you were a Steward?

The Witness: Well, I was one of the committee to represent the employees in the plant after the nine were suspended.

Trial Examiner Ruckel: Well, that is dues in the AF of L, isn't that correct?

The Witness: That is right.

Trial Examiner Ruckel: Did you collect dues in the plant?

The Witness: Yes. I believe that there was some money brought to me.

Trial Examiner Ruckel: Is there going to be any evidence on the practice, if there was any such practice, [334] of Stewards for the ILWU collecting dues in the plant?

Mr. Edises: Well, I believe that—

Trial Examiner Ruckel (interposing): It is not provided for in the contract, but it is provided they

(Testimony of Henry Hellbaum.)

shall take time off to handle grievances and for one other purpose. It says nothing about the collection of dues, but I wondered in practice if that was——

Mr. Edises (interposing): I believe that that was the practice, Mr. Examiner. In fact, this witness testified that he had seen Mr. Gonick and Mr. Duarte collecting dues.

Trial Examiner Ruckel: I think that is what I had reference to when I asked him what his testimony was.

Mr. Edises: Yes. And I think that was the practice. We can so stipulate if it is material.

Trial Examiner Ruckel: Well, not necessarily now, but at some time I would like to know what the situation was.

The Witness: It was definitely the practice.

Trial Examiner Ruckel: It might have been that the ILWU had certain prerogatives which grew up by reason of a closed shop contract that are not set forth in the contract. If that was one of them I would like to know it.

Mr. Edises: Well, we can stipulate to that. As a matter of fact, I propose a stipulation——

Trial Examiner Ruckel (interposing): If there are any others, I would like to know. [335]

Mr. Edises: I propose to stipulate that the contracting union has always engaged in the practice of collecting dues in the plant.

That is your recollection, is it not, Mr. Hellbaum?

The Witness: That is right.

(Testimony of Henry Hellbaum.)

Trial Examiner Ruckel: And would the same thing go to soliciting new members?

Mr. Edises: It has always been done. The company, I think, hasn't ever denied that privilege to the union. Of course, it was not so much a matter of soliciting as it was of contacting a new employee.

Trial Examiner Ruckel: That is right.

Mr. Edises: And telling him that he was required to join the union.

Trial Examiner Ruckel: By force of the closed shop contract.

Mr. Edises: The contract, but there has never been any objection to that by the company.

Trial Examiner Ruckel: I had assumed not. I was just wondering what the practice was.

Well, may that be stipulated?

Mr. Rowell: We will join in the stipulation on both phases.

Mr. Royster: The Board will so stipulate.

Trial Examiner Ruckel: Any further questions of this [336] witness?

Mr. Hecht: May I ask a question now, or do you gentlemen have further questions?

Mr. Royster: I have nothing.

Mr. Rowell: I have one question, but you go ahead.

Mr. Hecht: I am rather confused by Mr. Hellbaum's testimony.

Q. (By Mr. Hecht): Is it your testimony, Mr.

(Testimony of Henry Hellbaum.)

Hellbaum, that after August 30 you came into the plant to collect AF of L dues?

A. That was after we had the meeting.

Mr. Royster: That was after you were not permitted to enter the plant?

The Witness: No, I didn't enter the plant.

Q. (By Mr. Hecht): You didn't go back to the plant then? A. No.

Mr. Hecht: I just wanted to be clear on that.

Mr. Edises: Now I am not clear.

Q. (By Mr. Edises): You were collecting AF of L dues after the meeting at which the withdrawal resolution was passed; is that correct?

A. That is right.

Redirect Examination

By Mr. Rowell:

Q. At this, what has been referred to as the so-called trial of December 17, the Union trial, you didn't plead guilty, or not guilty, or anything is that right?

Mr. Edises: Well, now, just a minute. I want to object to that as leading and suggestive.

Mr. Rowell: He testified to it before.

Mr. Edises: He did not.

Trial Examiner Ruckel: If he did, why ask him again.

Mr. Rowell: Well, that is just preliminary.

Trial Examiner Ruckel: Objection sustained.

Mr. Rowell: All right.

(Testimony of Henry Hellbaum.)

Q. (By Mr. Rowell): Did you plead at that so-called trial? A. I did not.

Q. What did you do? Did you stand trial?

A. No.

Q. Was there a statement read by you or on your behalf as to the reasons why you were not standing trial? A. There was.

Mr. Rowell: Will you mark this for identification?

(Thereupon the document above referred to was marked Petitioner's Exhibit No. 1 for identification.)

Q. (By Mr. Rowell): I show you a paper which has been marked as Petitioner's Exhibit 1 for identification and ask you to read it and state whether or not that was the statement which was read on your behalf at the time you walked out, or didn't stand trial, on December 17, 1945? [338]

A. (Examining document.)

Trial Examiner Ruckel: Do you have to read it all?

The Witness: I believe that this is the letter.

Mr. Rowell: I will offer it in evidence, Mr. Examiner.

Mr. Edises: I will object until there is some showing of what relevancy and materiality is.

Mr. Rowell: All I do is complete the story that is brought out by Mr. Hecht, Mr. Examiner. That is all it is.

Trial Examiner Ruckel: Well, we are not inter-

(Testimony of Henry Hellbaum.)

ested in any phase of the story unless it involves the Respondent's knowledge of it.

Mr. Hecht: Well, Mr. Rowell, in my questions, I submit to you, and I stipulate further that if I fail to show by my witnesses that we had knowledge of the fact that this man appeared at the trial and refused to stand trial, if I don't show that you may move to strike those questions and those answers.

Mr. Rowell: Likewise, the reason why he refused to stand trial is of some materiality.

Trial Examiner Ruckel: It is not material as far as the Respondent is concerned. It might be material so far as the two unions are concerned.

Mr. Rowell: Well, then, the union is putting in defenses here that——

Trial Examiner Ruckel (interposing): The Union isn't [339] putting in any defense.

Mr. Rowell: I know, but it is supporting the defense of the company to the extent that these people were discharged because of strike action.

Trial Examiner Ruckel: Well, the company has indicated that they had some knowledge of the trial, but I thought we threshed that out yesterday. The materiality could only be the fact of a trial, and the Respondent's knowledge, and not the merits of the trial, or whether it was a fair trial or not, or not any statements or pleadings that took place at the trial.

Mr. Rowell: If Mr. Edises is going to offer those records of that trial——

Mr. Edises (interposing): Well, I submit that

(Testimony of Henry Hellbaum.)

I was not aware that Mr. Rowell had the talent of being a mind reader.

Trial Examiner Ruckel: He has not yet, anyway. The exhibit is rejected.

Mr. Rowell: All right. May I have it retained as marked for identification?

Trial Examiner Ruckel: That is right.

Mr. Rowell: And I will renew the offer if Mr. Edises makes a similar offer.

Trial Examiner Ruckel: Put it in a rejected exhibit file.

(Thereupon, the document heretofore marked
Petitioner's Exhibit No. 1 for identification,
was rejected.) [340]

Mr. Rowell: Mr. Hellbaum, let me ask one more question on this matter of pleading which you did at that trial.

Are you certain, as a matter of fact, do you know that you didn't plead guilty, or do you know that you plead not guilty, or nothing at all? Do you remember?

A. I plead "Not guilty."

Mr. Rowell: Yes, that is all.

Recross Examination

By Mr. Edises:

Q. You say that you entered a plea of "Not Guilty" at the trial, is that right?

A. I did.

(Testimony of Henry Hellbaum.)

Trial Examiner Ruckel: Any further questions?

Mr. Royster: None.

Mr. Hecht: No further questions.

(Witness excused.)

Mr. Royster: I am ready to call another witness.

Trial Examiner Ruckel: We will recess until 9:30 tomorrow morning.

Mr. Edises: Oh, one moment, Mr. Examiner. Is Mr. Thompson here?

Mr. Royster: Yes.

Mr. Edises: May we have Mr. Thompson take the stand for just a moment?

Trial Examiner Ruckel: Yes, Mr. Thompson.

EDWARD H. THOMPSON

called as a witness by and on behalf of the Trial Examiner, being first duly sworn, was examined and testified as follows:

Mr. Edises: Will it be stipulated that this is cross examination?

Mr. Royster: I don't see why I should do it again, Mr. Edises. We had a stipulation whereby it was agreed it was unnecessary to call Mr. Thompson.

Trial Examiner Ruckel: I will take the witness over.

(Testimony of Edward H. Thompson.)

Direct Examination

By Trial Examiner Ruckel:

Q. Mr. Thompson, what is your first name?

A. Edward H. Thompson.

Q. Where do you live?

A. 1034 Virginia Street, Berkeley.

Trial Examiner Ruckel: Cross examination for the Board?

Mr. Royster: No questions.

Trial Examiner Ruckel: The Union?

Cross Examination

By Mr. Edises:

Q. Mr. Thompson, I show you Intervener's Exhibit No. 2 which has been identified as the minutes of the meeting of July 30, concerning which there has been testimony, and at the foot of these minutes appears "E. H. Thompson, Recording Secretary." [342] Does that refer to yourself?

A. Yes, I was the Recording Secretary.

Q. You were the person who took these minutes?

A. Yes.

Q. Will you glance over them and tell me whether those minutes comport with your recollection, whether they are, so far as they go, a true and correct account of what took place at the meeting?

A. (Examining document): Yes, I believe these are.

(Testimony of Edward H. Thompson.)

Q. And the same question in regard to the minutes of the meeting of July 31 and August 2?

A. (Examining documents): Yes, I think these are correct. On this July 31—on this August 2 meeting, though, I don't think I was Recording Secretary on there. I probably was Recording Secretary—I am not quite certain whether I was. That is when we made a change.

Q. In any event, the contents seem to you to be accurate?

A. Yes, the contents seem to be. I don't know whether they are word for word, but they are——

Q. I see. Now, in the minutes of July 30 there appears this statement: "William Stolba, L. Olsen, Dave Luchsinger, Wm. Sherman, E. H. Thompson following general meeting visited an attorney for legal reasons as to the best way to complete severing relations with I.L.W.U. 1-6."

Who was the attorney you visited in that connection? [343]

A. I can't think of his name right off at present. I got his name at home, though. I could mail it in to the Board, if it is necessary.

Q. Is he an attorney at law practicing in Oakland, California?

A. Yes, he is an attorney in Oakland.

Q. And what advice did he give you?

A. He gave us the advice to send that telegram.

Q. Sending the telegram? A. Yes.

Q. And those telegrams are——

A. (Interposing): He drafted the telegrams.

(Testimony of Edward H. Thompson.)

Those are the telegrams what these others read here.

Q. Those which are in evidence as Board's Exhibits 5 and 6, is that correct? A. Yes.

Q. The question you asked of him was as to the appropriate legal method whereby these employees could sever their relations with ILWU, Local 6, is that correct?

A. That is right. And they asked numerous other questions. I don't remember or recall all the questions that they asked. They spent quite a bit of time with him, and he also started drafting a charter, or by-laws for a new Employees Welfare Association.

Mr. Edises: I see. That is all. [344]

Q. (By Mr. Rowell): In other words——

Mr. Edises (interposing): I am sorry. Just one other question.

Q. (By Mr. Edises): Were you aware of the ILWU's no-strike pledge? A. Yes, I was.

Mr. Edises: You were.

Q. (By Mr. Rowell): In other words, Mr. Thompson, when you consulted this attorney you were consulting him with reference to the appropriate legal method of changing your affiliation from the ILWU to a new labor organization, or a different labor organization?

A. That is correct, to the Employees Welfare Association, to the independent union.

Mr. Rowell: Yes.

(Testimony of Edward H. Thompson.)

Trial Examiner Ruckel: Questions by the Respondent?

Mr. Hecht: No questions, Mr. Examiner.

Mr. Rowell: On the record I would like to state to Mr. Edises that the attorney contacted by Mr. Thompson and others on the occasion you requested information about was George Gelder, G-e-l-d-e-r, in the Easton Building, 13th and Broadway, Oakland.

Trial Examiner Rucker: Is that correct?

The Witness: That is correct. I remember his name now that somebody mentions it. [345]

Trial Examiner Ruckel: That is all.

(Witness excused.)

Trial Examiner Ruckel: We will recess until 9:30.

(Whereupon, at 5:15 p. m. an adjournment was taken to Thursday, February 7, 1946, at 9:30 a. m.) [346]

Thursday, February 7, 1946

(Pursuant to adjournment, the above-entitled matter came on for hearing at 9:30 a.m.)

Proceedings

Trial Examiner Ruckel: The hearing will be in order, please.

Mr. Royster: Mr. Examiner, during the cross-examination of witness Henry Hellbaum yesterday, counsel for the intervener requested that the witness supply him with his union dues book, that is, his ILWU union dues book.

I would like the record to show that that book was delivered to counsel for the intervener this morning.

Do you agree, Mr. Edises?

Mr. Edises: Certainly.

Mr. Royster: The Board calls Kay Norris.

KAY NORRIS,

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Royster:

Q. State your name and address, Mrs. Norris, please.

A. Kay Norris, 2342 17th Avenue, Oakland, California.

Q. And how long were you employed by the respondent?

A. I first went to work for Colgate's in 1933,

(Testimony of Kay Norris.)

and I quit and went to work again in 1940, and up to September 1st when I was suspended.

Q. That is September 1, 1945? [350]

A. 1945.

Q. Were you a member of the ILWU?

A. I was.

Q. And for what period of time?

A. June 3, 1941, up to the time I was suspended.

Q. Now, Mrs. Norris, I show you Board's Exhibit 4 and ask if you have seen that before?

A. (Examining document): I have.

Q. And will you tell us when you saw it?

A. I saw it on the—I believe it was the 30th of July.

Q. 1945?

A. 1945. Ed Bopp threw it on my lap.

Q. Where were you at the time?

A. I was working in the Toilet Goods Department on the Cashmere Bouquet machine. Mr. Gonick come along after him and told me if I attended that meeting I would get into serious trouble.

Trial Examiner Ruckel: Who is Mr. Gonick?

Q. (By Mr. Royster): You didn't attend the meeting, did you?

Trial Examiner Ruckel: Who is Mr. Gonick?

The Witness: He is the Business Agent.

A. I did not attend the meeting because I had an appointment with the doctor.

Mr. Edises: Which meeting are we speaking of?

Mr. Royster: This is the July 30 meeting.

Mr. Hecht: July 30 meeting.

(Testimony of Kay Norris.)

Q. (By Mr. Royster): Did you sign an application for membership card in the AF of L?

Mr. Hecht: Mr. Examiner, before we go any farther (of course, apologizing at the outset, Mr. Royster), I make a motion to strike the testimony as to having Exhibit 4 thrown in her lap and the remarks of Gonick, there being no one representing the company present at the time and place.

Trial Examiner Ruckel: There was no foreman or supervisor present on that occasion, was there?

The Witness: There was a foreman about five feet away from me; Albert Zulaica.

Mr. Rowell: Now, Mr. Examiner, if you are contemplating ruling on that objection favorably, I would like to be heard for just a moment.

Trial Examiner Ruckel: I haven't ruled. I am still asking the witness.

Mr. Hecht: Mr. Examiner, the answer that Albert Zulaica was a foreman, Mr. Zulaica was on the stand yesterday. He had no position——

Mr. Royster (interposing): I believe he may have been a leaderman. There is no contention that Zulaica was a representative of the company.

Trial Examiner Ruckel I think it is perfectly clear [352] that the respondent isn't bound by that particular conversation, but the motion to strike is denied. It is the general picture that we are trying to get.

Q. (By Mr. Royster): I believe my question was: Did you sign an application for membership card in the AF of L?

A. I did, on the third of August.

(Testimony of Kay Norris.)

Q. And again, of course, you mean August, 1945? A. Yes, sir.

Q. Now, Mrs. Norris, you did not work from noon July 31, until the morning of August 3, did you? A. I did not.

Q. You refrained from working, as did most of the employees? A. I did.

Q. Did you work in the month of August, starting with August 3? A. I did.

Q. Did you see Hack Gleichman during that month? A. I did, numerous times.

Q. Where did you see him?

A. I saw him out on the platform, in the Toilet Goods Department. I saw him talking with Mr. Wood out in the yard. I saw him talking to Mr. Altman numerous times, and Mr. Railey.

Q. Did you overhear any conversation that Mr. Gleichman may have had with anyone in the Toilet Department? [353]

A. Yes. He went around to numerous employees on our floor and warned them to take their buttons off or they would be suspended as—they would be in the same predicament as the Stewards were.

Q. Did you hear him say that?

A. I heard him.

Q. What buttons do you mean?

A. The AF of L buttons, Chemical Workers Union.

Q. Did you wear an AF of L button at work?

A. I did.

(Testimony of Kay Norris.)

Q. Did you wear it prominently on your clothes?

A. I wore it at all times.

Q. Did you pass out any AF of L literature?

A. I did.

Q. That was in the plant?

A. In the plant.

Q. Did you pass out AF of L buttons?

A. I did, in the plant.

Q. I show you a writing, Mrs. Norris, of two mimeographed sheets and ask you if you can identify it. A. Yes.

Mr. Royster: Will the reporter mark this as Board's Exhibit 12 for identification?

(Thereupon the document above referred to was marked Board's Exhibit No. 12 for identification.) [354]

Q. (By Mr. Royster): Where have you seen Board's Exhibit 12 for identification before?

A. I came to work the next morning and they were distributed all throughout the women's eating room.

Mr. Hecht: What does she mean by "next morning"?

Q. (By Mr. Royster): What do you mean by "next morning," Mrs. Norris?

A. Well, I first saw it on the time clock.

Q. In what building?

A. Well, I don't know what building I am in. I am on the "A" floor.

Mr. Hecht: Mr. Royster, just a moment. May we have the date when she saw it?

(Testimony of Kay Norris.)

Mr. Royster: I am trying to fix that, Mr. Hecht.

Mr. Hecht: All right, thank you.

Q. (By Mr. Royster): When you say you saw it at the time clock, do you mean on a bulletin board there? A. Yes, sir.

Q. And it was on the bulletin board in the building in which you worked? A. Yes, it was.

Q. And what department did you work in?

A. Well, I work in the Toilet Goods Department but the time clock is not on my floor.

Q. But it is in the same building? [355]

A. It is in the same building.

Mr. Royster: Well, can we discover in what building the Toilet Goods Department is?

Mr. Hecht: That is the "L" Building.

Q. (By Mr. Royster): In the "L" Building?

A. The "L" Building.

Q. Now, when did you see this on the bulletin board there, Mrs. Norris?

A. I believe it was on the 22nd.

Q. Of what? A. Of August.

Q. Last? A. Yes.

Q. Did you see it any place other than the bulletin board? A. And upstairs on the table.

Q. Did you see anyone distribute any?

A. No, I did not.

Mr. Royster: I will offer Board's Exhibit 12 for identification in evidence.

Mr. Hecht: No objection.

Mr. Edises: No objection.

Mr. Rowell: No objection.

(Testimony of Kay Norris.)

Trial Examiner Ruckel: It will be received.

(Thereupon, the document heretofore marked Board's Exhibit 12 for identification was received in evidence.) [356]

Trial Examiner Ruckel: May I inquire: What do you claim for this testimony, though, that Gleichman, I believe it was, or someone else, threw this circular, Board's Exhibit 4, in her lap, and that Board's Exhibit 12 was circulated in the plant?

Mr. Royster: Board's Exhibit 12, Mr. Examiner, states under Item No. 7 that "Any Peet's employee reported as trying to get people to bolt the CIO and join the AF of L or wearing an AFL button, will be taken off the job."

The Board contends that the respondent, by virtue of that exhibit, was placed on notice as to the intent of the CIO Union with respect to the employees who took part in any AF of L activity. The Board further contends that this casts a revealing light upon the motivation of the CIO in securing subsequently the discharge of these employees.

Mr. Hecht: May I point out, Mr. Examiner, that although the witness has testified that it was on the bulletin board, that mere fact does not bring it home to the respondent.

Mr. Royster: Well, you can so contend.

Trial Examiner Ruckel: May I inquire, are these bulletin boards maintained by the Union or are they company bulletin boards?

Mr. Royster: I don't know.

(Testimony of Kay Norris.)

Mr. Hecht: They are maintained for the use of anyone [357] that wants to put up any notice, as far as I know, Mr. Examiner.

Trial Examiner Ruckel: Well, let that be developed later.

How about this notice being placed in her lap, you mean the same effect is claimed for that?

Mr. Royster: The same effect is claimed for that, that these notices, warning notices, were distributed very generally throughout the plant (I think the evidence shows that) that they must inescapably have come to the notice of the company.

Mr. Hecht: I object to the "must inescapably," Mr. Examiner.

Mr. Royster: He asked for my contention and I am giving it.

Trial Examiner Ruckel: That is his contention.

Mr. Royster: And that it shows again that the ILWU was determined to secure the discharge of persons who attended this meeting, and it puts the company on notice as to that intention.

Trial Examiner Ruckel: You are not contending that the company respondent favored one above the other in the solicitation of support for the organization?

Mr. Royster: Yes, I do contend that.

Trial Examiner Ruckel: This witness testified, and so [358] did one yesterday, that they wore their AF of L buttons freely in the plant, in fact, the one yesterday testified that he obtained members for the AF of L in the plant.

(Testimony of Kay Norris.)

Mr. Royster: Oh, yes, that is correct, Mr. Examiner. I claim that they paid a bitter price for doing so.

Trial Examiner Ruckel: Well, this goes principally to the question of notice rather than as violation of Section 8(1).

Mr. Royster: Yes, I think that is so.

Q. (By Mr. Royster): Mrs. Norris, did you have a conversation——

Mr. Hecht (interposing): Mr. Examiner, may I say this: Since Mr. Royster has already adverted to Sections of the Exhibit 12 it is to be noted too that there are other complaints made against the discharge, the removed Stewards, in that Exhibit 12 in addition to any question of AF of L affiliation, so the exhibit is offered as a whole, I think.

Mr. Royster: Oh, yes.

Trial Examiner Ruckel: Yes.

Q. (By Mr. Royster): Did you have a conversation about August 30, 1945, with Mr. Gleichman?

A. I did.

Q. And where did this conversation take place?

A. It took place in the Toilet Goods Department while I was working. [359]

Q. And who was present during this conversation?

A. All of the employees were working at the time, and one of the foremen.

Q. Pardon me?

A. And one of the foremen, leaderman.

(Testimony of Kay Norris.)

Q. A leaderman? A. Yes.

Q. Not the regular foreman of the department?

A. No, a leaderman.

Q. And what was the conversation?

A. He came up and tapped me on the back and said, "Let me see your book."

Q. And what book did he have reference to?

A. He meant my union book.

Q. And what union? A. In the ILWU.

Q. All right.

A. And I told him I didn't know who he was, and he said, "Well, you know this man, George Squires."

Q. George Squires. He is an employee of the respondent, is he not? A. Yes, he is.

Q. At that time was he not a steward of the ILWU? A. Yes, he was picked out.

Q. Well, he was a Steward of the ILWU at that time, wasn't [360] he?

A. ILWU. And he said, "Well, then, show him your book." I said, "No," because he was appointed by the CIO and not elected by the company.

Q. You refused to show your book?

A. So I refused to show my book. So Mr. Gleichman said, "Show your book to me. I represent ILWU." I told him if he would show me credentials of any kind I would show him, so he gave me his card, and I showed him my book.

Q. Now, after you showed him the book, was there any further conversation with Mr. Gleichman? A. Yes.

(Testimony of Kay Norris.)

Q. And what was that conversation?

A. He told me that I was campaigning in there, that I was going to get in trouble, that I was nothing but a Nazi leader. He asked me to go see a certain picture, and said that that is just exactly what I am. I learned later that this certain picture was a Nazi picture.

Trial Examiner Ruckel: You mean an "anti-Nazi" picture, I suppose?

The Witness: Yes.

Q. (By Mr. Royster): Was there any mention of union buttons?

A. He told me to take my union button off.

Q. What union button were you wearing?

A. My AF of L union button off, and I wouldn't do it. And [361] he said, "You better take that button off." I told him I bought the button, and if he bought his pants he paid for them, and I bought my button, and when he dropped his pants I dropped my button.

Q. Now, is Mr. Mason a foreman of your department? A. He was; he is.

Q. Where was he when this conversation took place?

A. He was on the floor, but he was too far away to hear me.

Q. Could he see that you were in conversation with these men?

A. He could see, yes. He was——

Mr. Hecht (interposing): I object to the conclusion that he could see, Mr. Examiner. It is pos-

(Testimony of Kay Norris.)

sible that he might have been able to see, but no one here can testify that he could see.

Trial Examiner Ruckel: Objection sustained.

Q. (By Mr. Royster): Well, could you see Foreman Mason?

A. I could. He was in plain sight.

Q. Was his face turned in your direction?

A. Right towards me.

Mr. Hecht: That is pretty leading, Mr. Examiner, but we will let it go.

Q. (By Mr. Royster): Now, on August 31 did you have a further conversation with Mr. Gleichman? A. I did. [362]

Q. And where did this conversation take place?

A. At the very same place.

Q. And again who was present?

A. All the employees, and this leaderman was just a few feet away from me.

Q. Was Mr. Mason there?

A. Mr. Mason was standing outside his office door.

Q. Would you say that Mr. Mason was too far away to hear any conversation? A. He was.

Q. Could you see Mr. Mason?

A. I could see Mr. Mason.

Q. Which way was Mr. Mason's face turned?

A. Well, he would be out that way and I am here (indicating).

Q. I mean with reference to where you were standing? A. What?

Q. With reference to where you were standing, which way was Mr. Mason's face turned?

(Testimony of Kay Norris.)

A. Well, he was looking toward me.

Mr. Edises: Mr. Examiner, I want to move to strike the testimony as to what Mr. Mason was doing subsequent to the witness' testimony that he was too far away to hear her. She has obviously disqualified him as a competent witness to this conversation.

Mr. Royster: Well, now, Mr. Examiner, it may develop [363] that what Mr. Mason could have seen at this time is a point.

Trial Examiner Ruckel: Well, it may stand.

Q. (By Mr. Royster): Now, what was your conversation with Mr. Gleichman on this occasion, Mrs. Norris?

A. I saw Mr. Gleichman coming. My machine was broken down, so I walked over to talk to one of the girls because he made it so tough for me the day before that I didn't want to get into an argument with him. Well, he followed me. He asked me if I had changed my mind, that he gave me time to go home and think it over, that I would drop AF of L and stick by CIO. I told him "No," that I hadn't changed my mind. He said, "I held a letter out for you until today." He says, "You are fired. You might as well get off the floor right now," and I got off.

I walked over to Don Stanberry, the Superintendent, and I said I didn't see why I should be treated that way, that I didn't do anything.

Q. Well, now, just a minute.

Just what did you tell Don Stanberry?

(Testimony of Kay Norris.)

A. I said, "That union fellow kicked me off the floor. He told me I was fired," and he shook his head and he said, "He can't do that."

So I said, "Well, I am going down to see Mr. Altman and find out if he can kick me off the floor."

I went downstairs, to the office, and Mr. Altman was not there, but Mrs. Olys was there.

Q. That is O-l-y-s.

A. I don't know how she spells her name.

Trial Examiner Ruckel: Who is she?

A. She was at the time the timekeeper.

Q. (By Mr. Royster): And after a conversation with Mrs. Olys what did you do?

A. She walked out on the platform with me, and she said, "Don't cry, Kay. You go right back up to your job," and I did.

Mr. Hecht: Mr. Examiner, whatever Mrs. Olys said I would like to have stricken.

Trial Examiner Ruckel: "Don't cry, Kay."

Mr. Hecht: "Don't cry, Kay."

Trial Examiner Ruckel: Well, it is part of what happened.

Mr. Royster: We make nothing of it.

Trial Examiner Ruckel: She went back to her job.

You went back to your job?

Mr. Hecht: I realize, Mr. Examiner, you are not impressed by this, but it does clutter the record.

Trial Examiner Ruckel: It may stand.

What did you do when you went back to your job?

(Testimony of Kay Norris.)

The Witness: I went back to my job, and I didn't say [365] anything.

Q. (By Mr. Royster): Well, you worked the rest of that day, did you?

A. I worked the rest of the day.

Q. Now, on the following day, September 1, did you come to work? A. I did.

Q. And how long did you work?

A. I worked until five minutes to three.

Q. And then what did you do?

A. I was told by my floorlady I was wanted in Mr. Railey's office.

Mr. Hecht: Mr. Royster, that is September 1?

Mr. Royster: September 1, yes.

Q. (By Mr. Royster): And did you go to Mr. Railey's office? A. I did.

Q. And whom did you see there?

A. I saw Mr. Railey, Mr. Wood, Mr. Altman, Mr. Cecil Carter, and Mr. Don Stanberry.

Q. And were other employees of the company there?

A. And other employees, about 18 or 19 of us.

Q. And was there any conversation there?

A. There was.

Q. Will you tell us what it was?

A. I said, "Well, what are we in here for?" Mr. Wood said, [366] "You will find out."

So Mr. Altman said, "Are they all here? Let's get this thing overwith." And he read where the CIO stated that we were——

Q. (Interposing) Just a moment, Mrs. Norris.

(Testimony of Kay Norris.)

I have a copy of the letter which the witness will testify was read on the occasion, and it may already be in evidence.

Mr. Hecht: I don't think so, Mr. Royster.

Mr. Royster: I will have it identified, then.

Q. (By Mr. Royster): Now, I believe you testified that a letter was read to you by Mr. Railey?

A. It was.

(Whereupon, the document above referred to was marked Board's Exhibit 13 for identification.)

Q. (By Mr. Royster): I will show you Board's Exhibit 13 for identification and ask you if that is the letter.

A. (Examining document) This is the letter.

Mr. Royster: I offer Board's Exhibit 13 for identification in evidence.

Mr. Rowell: No objection.

Mr. Edises: No objection.

Mr. Hecht: No objection.

Trial Examiner Ruckel: It will be received.

(Thereupon, the document heretofore [367] marked for identification as Board's 13 was received in evidence.)

Q. (By Mr. Royster): Was there further conversation after the reading of this letter, Mrs. Norris?

A. Yes. I spoke up and asked why we were——

(Testimony of Kay Norris.)

Q. (Interposing) Whom did you ask now? Let's get that.

A. I asked—well, I believe Mr. Wood had said something. I don't recall what he had said. And I said to Mr. Wood, "What are the charges?" He said he didn't know. I said, "I know why. It is because we wore AF of L buttons and we distributed literature." And he said, "I guess it is so, that could be it."

Mr. Hecht: How many were present?

Mr. Royster: She named the company officials who were there, and I believe she said 18 or 19 other employees.

Mr. Hecht: Oh, I see.

Q. (By Mr. Royster): Now, was there other conversation on this occasion, Mrs. Norris?

A. Yes. Mr. Railey said, "You people—we have asked you years ago not to join any unions, and we fought you." He said, "You fought us, you joined a union. You got into trouble," he says, "Now fight it." And Mr. Wood quoted him.

Q. What do you mean by that?

A. Well, Mr. Wood said, "That is right, that is right."

Q. Did you have any conversation with Mr. Stanberry on this [368] occasion?

A. No, not while I was in Mr. Railey's office.

Q. Do you recall any further conversations in Mr. Railey's office on this occasion?

A. Yes. Mr. Wood told us all that we did too much talking, that we talked too much, that if we

(Testimony of Kay Norris.)

had kept our mouths shut we wouldn't have got into this mess.

Q. Did you hear any of the other 18 or 19 employees ask any questions of Mr. Wood, Mr. Bailey, Mr. Stanberry, or any of the company officials on that occasion?

A. There was a question asked Mr. Bailey as to whether he was—whether the company was neutral. He said—Mr. Wood then spoke up and said, “We are neutral.” So it was asked why was Mr. Altman and Mr. Cecil Carter at the gate and locked everybody out? If they were neutral why did they do that?”

Mr. Hecht: There is no evidence here as to anybody being locked out. I think that is a very prejudicial and voluntary statement on the part of the witness and I object.

Trial Examiner Ruckel: There is no evidence as such in the case, but this witness is repeating what was said.

Mr. Hecht: Who said it?

Mr. Rowell: Well, now, wait a minute. Who is examining?

Mr. Hecht: Well, I mean I am going to object to this.

Trial Examiner Ruckel: Somebody asked that of Mr. Wood.

Mr. Hecht: Who asked it? [369]

The Witness: Someone asked. I believe it was Mr. Terry Anderson.

Mr Hecht: Can you produce Mr. Anderson?

(Testimony of Kay Norris.)

Mr. Royster: He will be a witness.

Trial Examiner Ruckel: What was said in response to that?

The Witness: And we asked Mr. Altman then to tell us why he had been at the plant at six o'clock in the morning when he usually reports to work at seven, and he wouldn't answer us, rather, I didn't hear the answer.

Mr. Hecht: I object to that type of testimony. It has no relevancy, no materiality, whether Mr. Altman would come in at five or twelve or six.

Trial Examiner Ruckel: Well, let's hear the entire conversation.

Was any answer made to this locking out question?

The Witness: I didn't hear it, if there was. I didn't hear what Mr. Altman said.

Mr. Hecht: The witness didn't hear any answer. I move to strike.

Trial Examiner Ruckel: It may stand. It is all part of one conversation.

Give us the rest of it so far as you recall.

Q. (By Mr. Royster): Have you exhausted your recollection of the conversations that took place on this occasion, Mrs. [370] Norris?

A. Well, just—these are what I can remember. There was quite a bit said, but most of this I hashed out myself, between Mr. Railey and Mr. Wood and myself, and I know just about what I said and what they answered me.

Q. Now, do you recall if there was any mention

(Testimony of Kay Norris.)

by anyone present at this meeting with respect to changing unions?

A. Yes, we told them that.

Q. Now, can you be a little more specific? Did you tell anybody this, or did you hear someone else tell someone what you were about to relate? You say "we told."

Mr. Hecht: Mr. Examiner, before the question is answered I would like to object to any more statements as to change of unions. It is obvious Exhibits 5 and 6 show all these people intended to change unions, and, as a matter of fact, changed unions by reason of these wires, at least, severed their relations, and whatever they said later on as to the changed unions is not material here.

Mr. Royster: Well, it may be very material.

Trial Examiner Ruckel: It might be. Let's see what the company representatives said, if anything.

Now, you said, "We said," and "they said."

Now, who is "we" and who is "they"?

The Witness: Well, us 19—18, it was 18, they counted 18 that day, but there was 19 on the list, I think on the [371] list; that is why I say 18 or 19 in there that day.

Q. (By Mr. Royster): That is employees who are named on Board's Exhibit 13, is that what you intend to say? A. Yes.

Q. They were present along with the company officials that you named?

A. They were present, yes.

Q. Now, you said, or started to say "We said."

(Testimony of Kay Norris.)

A. Someone in the group.

Q. In the group. What do you mean by "group"?

A. In this group that were suspended September 1.

Q. Someone of those said——

A. Spoke up and said that we—"I don't see why we can't, why we are not entitled to change from one union to another." Then we started in telling Mr. Railey of it.

Q. Now, was there any response made to this? You testified that one of these 18 said, "I don't see why we can't change from one union to another." Did any of the company officials there present make any response to that in your hearing?

A. Not that I can recall.

Mr. Royster: All right.

Trial Examiner Ruckel: What was the answer?

(The answer referred to was read by the reporter.)

Mr. Edises: I believe she was continuing her statement of the conversation. [372]

Q. (By Mr. Royster): Was there anything further? I certainly didn't want to interrupt.

Trial Examiner Ruckel: Did you have anything further to say?

The Witness: No.

Trial Examiner Ruckel: About what was said about changing unions?

The Witness: Well, then I spoke up and I said, "I go by the American flag, and I can join any

(Testimony of Kay Norris.)

church I want. I don't see why I can't join any union I want."

Trial Examiner Ruckel: All right.

The Witness: That is all.

Trial Examiner Ruckel: Then did any of the company representatives say anything in response to that statement of yours?

The Witness: No; I don't recall.

Q. (By Mr. Royster): There came a time when you left this meeting? A. Yes.

Q. After you left the meeting did you have any conversation with Mr. Stanberry? This is on the same day I mean?

A. Yes. I went out on the platform to pick up some soap I had bought. Mr. Stanberry helped me put it in the car. And I said to Mr. Stanberry, "Well, goodbye, Don. I guess I am washed up." And he said, "No, Kay, don't feel that way." He said, "This thing will all straighten out."

Q. Did you have any further conversation with Mr. Wood on that day?

A. Mr. Wood come out the door and he says, "Don't let her out yet, don't let her drive away." He says, "Just a minute." And he waited a while and somebody was on the phone, I imagine. He said, "No, they said go ahead and let them go."

So Mr. Wood walked over to me and, well, he said again that I talked too much and hadn't I wore my button I wouldn't be in the predicament I was in.

Mr. Hecht: Who said this?

(Testimony of Kay Norris.)

The Witness: Mr. Wood. He walked out on the platform and he said, "If you hadn't a wore your button," he said, "and if you hadn't talked so much," he said, "you wouldn't be in the predicament you are."

I turned away, and I walked away and got in my car and drove home.

Q. (By Mr. Royster): Have you since been employed by the Respondent?

A. I haven't.

Mr. Royster: That is all.

Trial Examiner Ruckel: Any further questions by the AF of L?

Mr. Rowell: No, no questions.

Trial Examiner Ruckel: For Respondent? [374]

Mr. Hecht: Mr. Examiner, the story of this September 1 meeting as told by Mr. Zulaica was neither as dramatic nor as elaborate as the one we have just heard, and I am afraid it is going to become more so as the witnesses get on the stand. I am going to make a motion to exclude witnesses from the hearing room, or I am making the motion.

Mr. Rowell: There is certainly no necessity for that, Mr. Examiner.

Trial Examiner Ruckel: Beg pardon?

Mr. Rowell: There is no indication that anybody is learning anything they didn't know before from listening to her testimony.

Trial Examiner Ruckel: Is the motion opposed? Is that it?

Mr. Royster: Yes, I oppose the motion. I think

(Testimony of Kay Norris.)

it is unusual. There is nothing here to indicate the propriety of such motion.

Trial Examiner Ruckel: I don't know what witnesses are in here. I would be disposed to grant the motion with respect to all those except those that are named in the complaint, as having been discharged. Probably those are the only witnesses here.

Those are the ones whom you would seek to exclude?

Mr. Hecht: Yes, sir. I have a feeling that they become, or may become suggestible as they hear testimony here. [375]

Mr. Rowell: Your feelings in the matter are not very material, Mr. Hecht.

Mr. Hecht: I think it is an ordinary human understanding.

Trial Examiner Ruckel: I do ask the Board to excuse from the room all of those excepting those named in the complaint as having been discharged. The Board regards those as in a sense parties to the proceeding, with something material at stake. It doesn't think they should be excluded during the trial of their case.

Are there any others than those named in the complaint?

Mr. Royster: Mr. Examiner, do I understand that if there be others they need not be excluded unless it is intended that they testify concerning events on September 1?

Trial Examiner Ruckel: Well, no, except the

(Testimony of Kay Norris.)

Respondent has no means of knowing that that is the sole purpose of their testimony.

Mr. Royster: Well, I have no witnesses here today, and I plan to call none except possibly one who is not named in the complaint, and the one that I may call who is not named in the complaint is not here today.

Trial Examiner Ruckel: Well, that one person isn't here now, is that correct?

Mr. Royster: That is correct.

Trial Examiner Ruckel: Are you satisfied with that [376] statement, Mr. Hecht?

Mr. Hecht: Yes, sir, Mr. Examiner.

Trial Examiner Ruckel: Proceed.

Mr. Hecht: Mr. Examiner, at this point I am going to make a motion to strike all of the testimony relating to interviews with Gleichman, where the witness has testified that Mr. Mason was too far away to have heard anything.

Trial Examiner Ruckel: While it is true that in each individual case there might not have been a representative of management present, nevertheless it still is possible that such a picture will be painted of widespread activities that from their sheer number one could argue that the Respondent knew of it even though he might not have known of each individual conversation.

Mr. Hecht: May I ask how?

Trial Examiner Ruckel: The whole may amount to more than the sum of all its parts, of course.

Mr. Hecht: Yes, but a number of zeros still do

(Testimony of Kay Norris.)

not add up to one, and if there was not a company representative there it still does not bring any knowledge to the company.

Mr. Hecht: I am not going to move to strike anything that was said by Stanberry, I'm not going to move to strike anything that occurred on the meeting of September in Mr. Railey's office, but I insist that the testimony of this witness, where there was no representative of the company [377] present should be stricken as prejudicial.

Mr. Rowell: Now, furthermore, Mr. Examiner, one of the defenses in this case is that the action of the Union was because of——

Mr. Hecht: I am not making any such defense.

Mr. Rowell: Well, all right. But the defense is made by another party.

Mr. Hecht: If it is stipulated that this testimony is not binding on the Respondent——

Mr. Royster (interposing): I have entered into no such stipulation.

Mr. Hecht: All right. I make a motion, Mr. Examiner, and I want a ruling on that motion, to strike.

Mr. Rowell: Do you want to strike something from the record which you admit is material on some other aspect of the case?

Mr. Hecht: I don't care if it is material on some other aspect of the case, but it is prejudicial to this Respondent, and I move to strike.

Trial Examiner Ruckel: Motion denied.

(Testimony of Kay Norris.)

Cross Examination

By Mr. Hecht:

Q. Mrs. Norris, you testified that you distributed AF of L literature throughout the plant, or rather, at the plant? A. Yes, sir. [378]

Q. Will you take a look at Respondent's Exhibits 1 to 14?

A. (Examining documents.)

Q. Did you recognize any of those bulletins as having been distributed by you, or copies of them?

A. Well, I have distributed—

Q. (Interposing) For instance, the one marked Respondent's Exhibit 1?

A. Well, I don't know the dates. I don't know now.

Q. It is possible that you could have distributed some or most of them? A. Oh, yes, yes.

Q. And did Mr. Wood, or Mr. Altman, or Mr. Railey, or Mr. Stanberry, or any of the foremen ever stop you from distributing any of these pamphlets?

A. No, they didn't stop me, but I got some dirty looks from them.

Q. All right. What do you describe as a dirty look? We might get it into the record.

Trial Examiner Ruckel: Well, let's not get into that.

You distributed them in the plant?

The Witness: Yes, I did.

Q. (By Mr. Hecht): Did Mr. Railey, Mr. Alt-

(Testimony of Kay Norris.)

man, Mr. Stanberry, or Mr. Carter, or any one of the foremen tell you to take off your AF of L button?

A. Only Mr. Wood the day he told me I shouldn't have worn [379] it or I wouldn't have got into trouble.

Q. Did he tell you to take it off? A. No.

Q. All right. Mrs. Norris, you have identified this pamphlet, Board's Exhibit No. 12?

A. Yes, I identified it.

Q. You have read it all?

A. Well, I read it—I imagine I read it all at the time, but I haven't just now.

Q. Did anything contained in this pamphlet cause you not to wear your AF of L button?

Mr. Royster: I object.

Trial Examiner Ruckel: What was the question?

(The question referred to was read by the reporter.)

Mr. Rowell: That is immaterial, Mr. Examiner.

Trial Examiner Ruckel: Objection sustained. She testified she wore her button all the time.

Q. (By Mr. Hecht): Mrs. Norris, did you attend a meeting or a hearing on December 17, 1945, at some place called the Green Room in Alameda County, California?

A. I appeared, yes.

Q. You appeared there. Was that in response to charges made against you by the ILWU?

A. It was.

(Testimony of Kay Norris.)

Q. And did you enter a so-called plea of some sort? [380] A. I pleaded not guilty.

Q. Did you stay there for this trial or hearing?

A. I did not.

Q. You walked out? A. I did.

Q. And you subsequently were advised by the ILWU that you had been expelled from the ILWU?

A. About three months previous to the meeting of the 17th.

Q. That you had been expelled?

Trial Examiner Ruckel: Well, suspended, wasn't it, the first?

The Witness: Oh, suspended.

Q. (By Mr. Hecht): Did you get any notice of any sort from the ILWU up to December 17, 1945? A. I did, to appear.

Q. After December 17? A. No; before.

Q. I am asking, did you get any notice after December 17, 1945? A. I did not.

Q. You got no communication of any sort?

A. I got nothing.

Mr. Hecht: I see. That is all.

Mr. Edises: Off the record for a moment.

Trial Examiner Ruckel: Off the record. [381]

(Remarks outside the record.)

Trial Examiner Ruckel: On the record.

Q. (By Mr. Edises): Mrs. Norris, did you stay away from work along with the other employees during that work stoppage of August 1 to August 3?

A. I did.

(Testimony of Kay Norris.)

Q. Were you aware of the ILWU's no-strike pledge during the war? A. I was not.

Q. You were not?

A. I never knew that they even said any such thing.

Q. Uh-huh. Were you aware that the labor movement in the United States, both AF of L and CIO, had pledged not to engage in strikes during the war?

Mr. Royster: Object.

Trial Examiner Ruckel: She may answer.

Mr. Royster: She has already testified—oh, excuse me. You ruled. Go ahead.

Trial Examiner Ruckel: She may answer.

A. Well, no.

Q. (By Mr. Edises): You were not aware of it?

A. No.

Q. Did you approve of the strike that the Colgate employees engaged in on August 1 to 3?

A. I beg your pardon? [382]

Mr. Edises: Will you read the question, please?

(The question referred to was read by the reporter.)

Mr. Royster: I am going to object to the question again. I don't think it is material, whether she approved or not.

Trial Examiner Ruckel: She may answer.

Mr. Hecht: It is material.

Mr. Rowell: Did the Examiner rule on it?

(Testimony of Kay Norris.)

Trial Examiner Ruckel: Did you approve of it? Did you take part in it?

The Witness: Yes, I did.

Q. (By Mr. Edises): You did approve of it?

A. Yes.

Q. Were you aware that this country was still engaged in war with Japan at that time?

Mr. Rowell: Now, Mr. Examiner, this process of inquiry is certainly prejudicial and immaterial. If the claim is made that the reason why these people were discharged was because they went on strike, I suppose that it has been already ruled that that can be shown, but to belabor the witness as to whether she knew we were in the war, and the necessity for prosecuting the war is far afield and away from this case.

Mr. Edises: I realize it is natural for counsel to want to object to questions which may hurt his case, but it is nevertheless relevant. [383]

Mr. Rowell: It doesn't hurt our case at all.

Trial Examiner Ruckel: I will sustain the objection. I suppose everyone knows that we were at war at that time.

Mr. Edises: I don't know, your Honor.

Mr. Hecht: Mr. Examiner, I think it is relevant to this extent: the Examiner mentioned at the outset of this hearing that it was a matter of practically judicial notice, this no-strike pledge of the ILWU. The witness appears to have been in a vacuum, except for the things she has heard on September 1, and I think we should be able to

(Testimony of Kay Norris.)

test her memory as to whether a war was going on, and other events, except September 1, 1945.

Mr. Edises: May I answer that, Mr. Examiner: that if this witness was not aware of the very widely publicized no-strike pledge of her own union it is entirely possible she did not know there was a war going on at the time. If so, it may be that she was innocently disciplined by the ILWU.

Mr. Rowell: What a peculiar statement, obviously not made in good faith, Mr. Examiner.

Trial Examiner Ruckel: Objection sustained.

Let's don't play with the witness. There was a war on, as she doubtless knew.

Mr. Rowell: You might ask whether the CIO knew whether there was a war on when they laid off these valuable and long [384] employed employees of this valuable company.

Mr. Edises: You bet we knew there was a war on.

Trial Examiner Ruckel: Strike this whole colloquy from the record.

Q. (By Mr. Edises): Now, you testified about changing unions. When did you change unions?

A. August 3. I mean—yes, August 3 I signed my pledge card to join the AFL, Local 233.

Q. That is the AFL Chemical Workers Union?

A. Chemical Workers Union.

Q. And were you a member of the Employees Welfare Association? A. I was.

Q. You were. And did you accept the program of the Employees Welfare Association?

(Testimony of Kay Norris.)

A. I did.

Q. Prior to the AF of L coming into the plant were the employees in the habit of wearing their CIO buttons?

A. No. We never saw a CIO button until all of this trouble came up and then the CIO officials came out and started to issue us buttons, and we were told that we had to wear them. But for a couple of years you didn't hardly see a CIO button.

Q. The CIO buttons were available, however, were they not?

A. Where? I don't know even where we could have gone and got one. [385]

Q. Were you in the habit of attending your CIO Union meetings?

A. No. Well, I was ill.

Q. So you did not attend the meetings, is that right? A. I did not.

Q. For how long did you not attend such meetings?

A. The year of 1943 I was in the hospital three different times, I didn't attend a meeting, but the CIO forced me by letter to pay all my dues. I paid the CIO my dues by Bank of America checks.

Q. When did you stop paying your dues?

A. I never did. I kept getting these letters that I was going to get kicked out of the Union if I did not pay them. Yet, I was in the hospital three different times.

Trial Examiner Ruckel: Did you ever attend a CIO meeting?

(Testimony of Kay Norris.)

The Witness: Yes, I have.

Q. (By Mr. Edises): Did you attend the meeting of the Employees Welfare Association on July 31, 1945? A. I did.

Q. You did. Did you concur in the actions taken by that meeting?

A. I—can you put that some other way? I am not——

Q. Well, I mean did you go along with——

A. (Interposing) I went right along with them. [386]

Q. What was done at the meeting?

A. Yes, sir.

Q. Now, what was your purpose in joining the AF of L Chemical Workers? What did that signify to you?

Mr. Royster: I think I will object to that, Mr. Examiner. I don't see the materiality of it.

Trial Examiner Ruckel: Do you care to state the materiality of this?

Mr. Edises: It has a certain materiality, but I would prefer—if the answer does not establish its relevance and it cannot be connected up with the issues, I would concede the appropriateness of a motion to strike, rather than disclose my purpose on cross examination.

Trial Examiner Ruckel: We will recess for 10 minutes.

(A short recess was taken.)

(Testimony of Kay Norris.)

Trial Examiner Ruckel: Objection sustained to the last question.

Mr. Royster: We have reached a tentative stipulation during the off-the-record conference, Mr. Examiner, and, perhaps, it would be best to put it in now, even though it breaks into this witness' testimony.

Trial Examiner Ruckel: All right, sir.

Mr. Royster: It is hereby stipulated by and among counsel for the Board, the Respondent, the Intervener, and the AF of L, that all of the individuals named in the complaint [387] who have not already testified, with the exception of Rose Schneider, Calixto Rigo, Caetano Pereira, attended the meetings of July 30, July 31, and August 2, 1945, and concurred in the actions taken at these meetings.

It is further stipulated that these individuals wore AF of L buttons in the plant, that they engaged in other AF of L activity, that they participated in the work stoppage beginning at noon on July 31, and ending the morning of August 3, 1945, that they knew of the ILWU's no-strike pledge for the duration of the war, and that the following individuals plead guilty to a charge made by the CIO Union that they had participated in a war-time strike in violation of the ILWU's no-strike pledge: Glenn Hixon, Martin Heppler, Thomas Azevedo, Manuel Souza, Robert Ashworth, Felix Denkowski, Vincent Barboni, Alden Lee, John

(Testimony of Kay Norris.)

Perucca, Manuel Munoz, Ann Cerrato, Rose Ros, Ina Mae Paige, and Nick Tate.

Mr. Rowell: I would like to suggest an addition to the stipulation, that the individuals referred to——

Trial Examiner Ruckel (interposing): Couldn't this be off the record?

Mr. Edises: Couldn't this be off the record? We haven't even discussed this yet.

Mr. Rowell: Yes, off the record.

Trial Examiner Ruckel: Off the record. [388]

(Remarks outside the record.)

Trial Examiner Ruckel: On the record.

Do you gentlemen stipulate to what has been dictated so far?

Mr. Rowell: Yes, I so stipulate.

Mr. Royster: The Board stipulates.

Mr. Hecht: So stipulated.

Mr. Edises: The ILWU so stipulates.

Trial Examiner Ruckel: Now, is there anything further you want to stipulate to?

Mr. Royster: Not at this moment, Mr. Examiner.

Trial Examiner Ruckel: Are you ready to proceed with the witness?

Mr. Royster: Ready.

Trial Examiner Ruckel: Further questions by the Board or by the Intervener?

Mr. Royster: I believe Mr. Edises was examining, was he not?

Mr. Edises: Yes, I was examining.

(Testimony of Kay Norris.)

I think, Mr. Examiner, that in view of the stipulation it will not be necessary to ask any further questions of this witness.

Trial Examiner Ruckel: Further questions by the Board?

Mr. Royster: Just one has occurred to me, Mr. Examiner.

Redirect Examination

By Mr. Royster:

Q. On the date you were last employed by the Respondent, Mrs. Norris, were your dues paid up in the ILWU?

A. My dues were paid up to October. November would have been my next dues.

Mr. Royster: That is all.

Mr. Edises: Wait a minute.

Trial Examiner Ruckel: Further questions?

Mr. Rowell: I think I will have her identify this rejected exhibit, Mr. Examiner.

Trial Examiner Ruckel: Which?

Mr. Rowell: The statement read at that so-called union trial. Here it is, Petitioner's No. 1 for identification.

Q. (By Mr. Rowell): Mrs. Norris, at that attempted or so-called trial by the union on December 17 did you read that statement, showing you Petitioner's Exhibit 1 for identification?

A. (Examining document) I read it.

Q. You read it on behalf of individuals who

(Testimony of Kay Norris.)

did not plead guilty to the charges as the Board's attorney just said?

Mr. Hecht: Mr. Examiner, the witness answered that no one representing the Respondent was present at this trial or hearing, and I object to any further questioning or testimony.

Mr. Rowell: I haven't offered it in evidence.

Trial Examiner Ruckel: No; it is a rejected exhibit. [390]

Mr. Edises: We will object to the question in that the last question was leading and suggestive.

Trial Examiner Ruckel: Sustained.

Q. (By Mr. Rowell): You read it on behalf of——

Mr. Edises (interposing): I object to that. Its very form shows that it was a leading question.

Trial Examiner Ruckel: On whose behalf did you read that exhibit?

The Witness: On all of us.

Trial Examiner Ruckel: Who is "all of us"?

The Witness: That had received letters from the ILWU to attend the trial.

Q. (By Mr. Rowell): Well, subsequent, after you got through reading that statement, did a certain group of individuals walk out and not stand trial? A. Yes.

Mr. Edises: Now, I object to this evidence. The AF of L has raised the point that they regard the proceedings of these trials as irrelevant to any of the issues. We intend later, as a matter of fact, to offer in evidence, for what it may be worth, the

(Testimony of Kay Norris.)

entire transcript of the proceedings at those trials and the formal documents which followed upon them. Now, I submit that that is the best possible evidence of anything that went on at these trials.

Trial Examiner Ruckel: She may state whether or not [391] she and the others walked out or not. She stated that they did.

Mr. Hecht: As a matter of fact, she already answered that on my examination, Mr. Examiner.

Trial Examiner Ruckel: Yes, she has already answered it.

Mr. Rowell: All right. No further questions.

Trial Examiner Ruckel: That is all.

Mr. Edises: Just a moment. There was another question asked after I completed my examination, he went into a new subject, and I may want to question about that.

Mr. Rowell: It was not a new subject, Mr. Edises. She testified on your examination——

Trial Examiner Ruckel (interposing): Off the record.

(Remarks outside the record.)

Trial Examiner Ruckel: On the record.

Recross Examination

By Mr. Edises:

Q. Mrs. Norris, when was the last time you paid dues to the ILWU?

A. I don't know for sure, but I have a check

(Testimony of Kay Norris.)

stub at home. I think it was April I paid four months.

Q. In April you paid four months?

A. 1945. No, I wouldn't say for sure, but I have got a check stub at home that had come back that the ILWU had cashed. [392]

Q. After you started to—after you joined the AF of L, did you pay any dues into the CIO?

A. No because——

Q. (Interposing) Well, now, just a minute.

Mr. Rowell: Let her finish the answer.

Mr. Edises: I am not interested in her reasons. I didn't ask that question.

Trial Examiner Ruckel: She has answered the question. It was "No"?

The Witness: "No."

Redirect Examination

By Mr. Rowell:

Q. Why didn't you pay up your dues?

Mr. Edises: I object to that as calling for an opinion and conclusion of the witness.

Trial Examiner Ruckel: She may state it.

A. I had been paying dues a whole year, and I was ill. I was told that I am not supposed to pay dues when I am ill, and I have three records stating I was in the hospital. So I talked to my Stewards about it. Then went to the Union, and the Union, in the place of giving me back all of the

(Testimony of Kay Norris.)

dues I had paid in, they only allowed me, I think, six months.

Q. (By Mr. Rowell): Were you paid up on September 1, were your dues paid up?

A. So that brought my dues, what they credited me brought [393] my dues up—they gave me a credit of six months, that brought my dues up to November, paid up to November.

Q. 1945? A. Yes.

Mr. Rowell: No further questions.

Mr. Edises: Let me get this straight.

Recross Examination

By Mr. Edises:

Q. You testified that you did not pay any dues to the CIO after you joined the AF of L, is that correct?

A. Well, they wouldn't take them.

Mr. Edises: Now, Miss Reporter, will you please read back her testimony on that point?

Trial Examiner Ruckel: Your answer now is they would not take them?

The Witness: They would not take any money.

Mr. Edises: Will you read back her testimony on that point?

The following testimony was read by the reporter as follows:

“Q. Mrs. Norris, when was the last time that you paid dues to the ILWU?

“A. I don't know for sure, but I have a

(Testimony of Kay Norris.)

check stub at home. I think it was April I paid four months.

“Q. In April you paid four months?

“A. 1945. No, I wouldn't say for sure, but I have got a [394] check stub at home that had come back that the ILWU had cashed.

“Q. After you started to—after you joined the AF of L, did you pay any dues into the CIO? A. No.”

Mr. Edises: That is all I wanted.

Q. (By Mr. Edises): Now, may I see your dues book, please? A. (Handing book.)

Q. Now, you testified the last time you paid was in May, you paid four months at that time?

A. April, around April.

Q. In April?

A. I said I didn't know for sure, I would have to look at this check stub to see. I know I paid four months at this time.

Q. Around April? A. Yes.

Q. And that was the last time you paid any dues into the CIO? A. Yes.

Q. And the CIO wouldn't take your dues after that, isn't that right?

A. The CIO refused my November and December dues.

Q. Yes. In other words, the next time you tried to pay dues into the CIO they wouldn't take them, is that right? [395]

A. I was out, suspended.

(Testimony of Kay Norris.)

Q. Just answer the question.

A. The last time they refused my dues.

Mr. Edises: I see. That is all.

Mr. Rowell: No questions.

Trial Examiner Ruckel: That is all.

Mr. Royster: Well, may the witness have her book back?

Mr. Edises: Oh, yes, sure. Oh, may I ask this witness another question?

Trial Examiner Ruckel: Yes.

Q. (By Mr. Edises): Now, this book which I hold in my hand is your CIO dues book, is it not?

A. It is.

Q. And I ask you if this does not show that the dues for May, June, July, August, September, and October were paid in one lump sum at the same time?

A. (Examining book) From May until October was what they had deducted me. From January to April is what I had written them a check for, the four months, from January to April.

Q. Now, the question is whether this book does not show that your dues for May through October were paid for, whether in the form of cash or credit, in one lump and at one time?

A. Yes, sir.

Q. Now, when was the last time that you attempted to pay dues into the CIO? [396]

A. I called Emma, the Secretary of the CIO, and asked her if they would accept my dues, and she says, "No."

(Testimony of Kay Norris.)

Trial Examiner Ruckel: When?

Q. (By Mr. Edises): When?

A. I called her in November, the end of—my dues came due in October, and I called her around Thanksgiving in November.

Q. Of 1945?

A. '45. And she said, "No," that they would not accept my dues because I was suspended.

Q. And when was your employment terminated at Peet's? A. When I was——

Q. When did you stop working at Peet's?

A. September 1.

Mr. Edises: No further questions. (Handing book to witness.)

Mr. Rowell: No questions.

Mr. Royster: No questions.

Trial Examiner Ruckel: That is all.

(Witness excused.)

Mr. Royster: As long as this matter of paying dues is being made an issue——

Mr. Edises: Well, we didn't bring it in.

Mr. Rowell: Let's go off the record.

Trial Examiner Ruckel: Off the record. [397]

(Remarks outside the record.)

Trial Examiner Ruckel: Let's proceed. Call the next witness.

Mr. Royster: Calixto Rigo.

CALIXTO RIGO

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Royster:

Q. State your name and address, Mr. Rigo?

A. Calixto Rigo, 1232 Talbot Avenue, Berkeley, California.

Q. Mr. Rigo, where were you, or rather, were you working from July 23 to August 6, 1945?

A. That was my vacation period.

Q. And your answer is that you were not working?

A. That is right.

Q. On August 31, 1945, did you come to the Respondent's plant?

A. No, sir. August 31?

Q. August 31?

A. Yes, sir.

Q. And tell us what happened there?

A. Well, it was 7:15 in the morning, I was ready to go to work, and Mr. Gleichman stopped me and handed me a letter.

Q. Where was this? [398]

A. About—say about 50 feet from the gate.

Q. 50 feet from the gate. You were on your way to work?

A. About 50 feet.

Q. Did Mr. Gleichman say anything to you?

A. Well, he told me, "Here is a letter for you, and you are fired. You cannot work here any more." And that, "You go to your A. F. of L. friends to help you now."

(Testimony of Calixto Rigo.)

Q. Were your dues paid up in the ILWU at that time?

Mr. Hecht: Just a moment.

Trial Examiner Ruckel: Just a moment.

Mr. Hecht: Mr. Examiner, may I make a motion to strike the testimony of the witness as to something that occurred 50 feet away from the gate of the plant and at which conversation there was no representative of the company present?

Mr. Royster: Well, Mr. Examiner, of course this evidence doesn't show that the company knew what Mr. Gleichman said on this occasion, but I submit that it has value to indicate the reason why Mr. Gleichman, a representative of the ILWU, would not permit this man to enter the plant.

Mr. Hecht: The reason doesn't bind us. It has no materiality in the charge against us.

Trial Examiner Ruckel: Motion denied.

Mr. Edises: Well, I want to enter my objection to this question on the ground that it does not prove or tend to prove any of the issues in the case. [399]

Trial Examiner Ruckel: Which question now do you mean?

Mr. Edises: This last question.

Trial Examiner Ruckel: As to the payment of dues?

Mr. Edises: As to the payment of dues.

Trial Examiner Ruckel: As I understand the pleadings, it is not an issue.

Mr. Royster: Well, may it be understood then, by counsel for all the parties, that there is no con-

(Testimony of Calixto Rigo.)

tention here on behalf of anyone that any of the persons named in the complaint were delinquent in their dues to the ILWU at the time that they were suspended?

Mr. Hecht: I will stipulate to this extent:

Mr. Edises: Wait a minute. I don't see how you can stipulate.

Mr. Royster: He can stipulate to anything.

Mr. Hecht: I will stipulate that we did not know that, or rather, that no information was given to us as to whether the men had paid or had not paid their dues.

Trial Examiner Ruckel: I imagine that might be included in the other stipulation.

Do the other parties stipulate, agree to the stipulation as stated by Mr. Royster?

Mr. Edises: No, we can't stipulate to the fact. What we can stipulate—and I think this is all Mr. Royster needs to have—we will stipulate that the ILWU is not contending [400] in this case that the union's disciplinary action in regard to the complaining parties was based on non-payment of ILWU dues.

Mr. Royster: That was my stipulation as I thought I dictated it. That is agreeable to me.

Trial Examiner Ruckel: Your stipulation was they were not delinquent. He says he does not know whether they were.

Mr. Royster: I said with respect to our contention, but that is agreeable to me.

(Testimony of Calixto Rigo.)

Mr. Edises: Do you want to read that back, please?

Mr. Royster: Your stipulation?

Mr. Edises: Yes.

(The stipulation referred to was read by the reporter.)

Mr. Royster: That is agreeable for the Board, and I so stipulate.

Mr. Hecht: I will accept that stipulation, too.

Mr. Rowell: I will accept it also.

Mr. Royster: That is all the questions I have of Mr. Rigo.

Trial Examiner Ruckel: Any further questions by the A. F. of L.?

Mr. Rowell: None.

Mr. Hecht: I have no questions.

Trial Examiner Ruckel: Any questions by the Intervener?

Cross-Examination

By Mr. Edises:

Mr. Rigo, were you a member of the Employees Welfare Association? Did you join that?

A. No, sir.

Q. Did you join the A. F. of L.?

A. Yes, sir, on August 8.

Q. On August 8? A. That is right.

Mr. Edises: That is all.

Mr. Royster: No further questions.

Trial Examiner Ruckel: That is all.

(Witness excused.)

We will recess until 1:45 this afternoon.

(Whereupon, at 12:00 M. a recess was taken until 1:45 P.M. of the same day.) [402]

After Recess

(Whereupon, the hearing was resumed, pursuant to recess, at 1:45 P.M.)

Trial Examiner Ruckel: The hearing will be in order, please.

Mr. Royster: Call Robert Ashworth.

Mr. Hecht: Mr. Royster, before you call Mr. Ashworth, we have Mr. Railey, the Vice President of the company, whose name you have heard mentioned in this hearing before, and he is leaving for the East tonight.

Will you agree that he be put on out of order as a company witness at this time?

Mr. Royster: Yes, sir.

Mr. Hecht: Is that agreeable to you, Mr. Rowell?

Mr. Rowell: Yes.

Mr. Edises: No objection.

Mr. Hecht: Will you take the stand, Mr. Railey?

B. W. RAILEY

called as a witness by and on behalf of the Colgate-Palmolive-Peet Company, respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Hecht:

Q. Will you state your name for the record, Mr. Railey? A. B. W. Railey, R-a-i-l-e-y. [403]

Q. And what is your business or occupation?

A. Vice President of the Colgate-Palmolive-Peet Company.

Q. Since what time have you held that position?

A. Since 1938.

Q. So I take it you were the Vice President in the month of July, 1945? A. Yes, sir.

Q. And up to and including September 1, 1945?

A. Yes, sir.

Q. Where are your offices located?

A. The Pacific Coast office at Berkeley, California.

Q. All right, sir. And were you at your office on July 28, 1945? A. No, sir.

Q. Were you at your office on July 30, 1945?

A. Yes, sir.

Q. What time do you usually arrive at work?

A. Around eight in the morning.

Q. And you arrived at that time on July 30, 1945? A. Yes, sir.

Q. Did anything unusual occur on July 30, 1945?

A. Well, during the day, or shortly after lunch,

(Testimony of B. W. Railey.)

our Superintendent, Mr. Altman, came to my office with the communication that he had received from the ILWU No. 6, I believe is the official title, in which they had asked us [404] to suspend five employees of the company.

Q. Did Mr. Altman show you that letter?

A. He did.

Q. I show you Board's Exhibit No. 3 which purports to be a copy of a letter dated July 30, 1945, on the stationery of the ILWU, addressed to your company.

Will you look at it and tell me if that is the letter you have reference to?

A. (Examining Document): Yes, that is the letter.

Q. That is the letter. And are the five persons named in the letter the ones you had reference to?

A. Yes, sir.

Q. And what occurred after Mr. Altman showed you that letter?

A. We took the letter and went back to Mr. Altman's office where there were awaiting us certain representatives of the CIO.

Q. Can you name them?

A. My recollection is that Mr. Heide was one of them, Mr. Gleichman, Mr. Duarte, and whether there were others I am not too sure, but I am sure of those three.

Q. There were five present, you say?

A. I am not sure of the number.

(Testimony of B. W. Railey.)

Q. Did a conversation ensue between you and the representatives of the CIO? [405]

A. It did.

Q. Will you relate to the best of your recollection the gist or substance of that conversation?

A. We told these people that this was—came as a very great surprise to us, literally a bombshell, we knew nothing about what it was about, or any reason why these men should be suspended, and protested the thing because we told them they had been loyal employees as far as we were concerned, and we had no charges against them. We were quickly reminded of our contract with the CIO which specified—which carried a paragraph to the effect that all employees must be in good standing with the union to work at our plant.

Q. Was the contract produced?

A. It was called to our attention, this particular paragraph that I refer to.

Q. Was the contract itself or a copy of the contract—

A. (interposing): A copy of the contract was read at the time.

Q. I will show you Board's Exhibit 7 and have you look at it. It purports to be a copy of a contract between the Respondent and the ILWU, and see if you can pick out the clause you have reference to.

A. (Examining contract): Well, of course, I don't have reference to the number of it. I can find it.

(Testimony of B. W. Railey.)

Q. I think I will save you time and tell you it is on the [406] first page, Mr. Railey.

A. (Indicating): That is the clause that I am referring to.

Q. Will you specify the number of the clause?

A. Section 3.

Q. You discussed that clause with the representatives of the CIO? A. Yes, sir.

Q. Did any further conversation or discussion ensue after that?

A. These gentlemen that represented the CIO told us that these men must be discontinued immediately. They told us that they had sent a notice of their suspension to each man by registered mail, each man that was involved. They told us if we didn't discharge them they would.

Mr. Royster: I didn't get that answer, the latter part of it.

(The answer referred to was read by the reporter.)

Q. (By Mr. Hecht): What else happened, Mr. Railey?

A. It was finally agreed that we should call these five men into the office. When they came in——

Q. (Interposing): At this point you might name those five men, Mr. Railey.

A. There was Mr.——

Mr. Royster: They are in the letter.

Mr. Hecht: Yes. [407]

(Testimony of B. W. Railey.)

The Witness: Mr. Marshall, Mr. Moreau, Mr. Haynes, Mr. Smith— May I look at this again and check my memory? (Examining document): And Mr. Luchsinger.

Q. (By Mr. Hecht): And you called them into your office? A. We did.

Q. And what occurred then?

A. When they came to our office the CIO officials handed each of them a carbon copy of a letter which they stated had been mailed to their homes. These gentlemen looked at the letters briefly and crushed them in their hands and stuck them in their pockets and walked out of the office.

Q. No conversation between the five men?

A. No conversation.

Q. Between the five men and the CIO officials?

A. No.

Q. Any statement to you by these five men?

A. Not at the time, no.

Q. Did anything unusual outside of that occur on July 30? A. No.

Q. Now, calling your attention to July 31, 1945, did you go to your office on that day?

A. Yes, sir.

Q. At about the same time, eight o'clock?

A. About eight o'clock in the morning.

Q. Did anything unusual occur on July 31, 1945?

A. When I arrived at the office there was a committee of our employees waiting in the office to see me, and asked if they could have an interview.

(Testimony of B. W. Railey.)

Q. Can you name that committee?

A. There was Mr. Sherman, Mr. Olsen, Mr. Thompson, and Mr. Lonnberg.

Q. What occurred?

A. I took them into my office and had a talk with them there. They told me that the object of their call was to ask us to put these five suspended employees back to work. We again, or at that time told them that we——

Q. (Interposing): By “we” who do you mean, Mr. Railey?

A. Well, I am referring to the company when I say “we.” I told them that we had a contract to live up to, and the contract stated unless they were in good standing with the union they couldn’t work in the factory, and that was a problem between the CIO and these employees.

Q. Did they say anything to what you have just stated?

A. They told us that if we didn’t reinstate these people and put them back to work immediately that they wouldn’t be responsible for the consequences.

Q. Did you ask them what they meant by that?

A. No, I didn’t go into detail.

Q. Let me ask you, was Mr. Altman present at this meeting?

A. He came in shortly after the meeting started.

Q. Was any statement made by the committee-men to Mr. Altman?

A. Well, I don’t believe direct to Mr. Altman.

(Testimony of B. W. Railey.)

I think they made the same statement to him they made to me.

Q. I see. Any further conversation between you and these gentlemen?

A. Well, yes, we told them we were sorry about the whole thing, all we were interested in was running our plant. And when Mr. Altman came into the office he told me that the officials of the CIO were in his office, which is in another part of the factory. I proposed that we invite the CIO officials over to our office and see if we couldn't iron out this trouble with this negotiating committee. This they agreed to, and the CIO officials came over to our office. We told them why they had been asked to come over, and from there on the conversation was largely between the CIO officials and this negotiating committee.

Q. Was this a free-for all, or had either side spokesmen?

A. I would say it was more or less a free-for-all. As I recall it, Mr. Lynden, the President of the CIO, and Mr. Sherman of this negotiating committee, did most of the talking.

Q. Can you relate the gist of this conversation or talk between the two men?

A. Well, to boil it down, the CIO people told this [410] negotiating committee that these people would have to stand trial on the charges against them, they could not work until those charges were disposed of, and they repeatedly reminded them, reminded this negotiating committee of the oaths

(Testimony of B. W. Railey.)

that they took when they joined the CIO and the consequences of a violation of those oaths, and assured them that they had done everything they could to get increases for the employees of the company, pointed out that the wages were frozen, nothing they could do about it, nothing that the company could do about getting an increase. And at one stage of the meeting the Negotiating Committee, without any further ado, walked out.

Q. About what time would you say that was?

A. Oh, I would guess it was probably about 9:30 in the morning.

Q. Did you continue the conference with the CIO officials? A. Yes, we did.

Q. What was the subject of the conference?

A. We told them that our factory the afternoon before had been a very— in a state of turmoil due to the fact of a lot of conversation and visiting, and union people going through the plants, and people couldn't get their work done. And we asked them if they wouldn't leave the grounds, and they said, "Well, they would leave if this negotiating committee and the— or rather if the five Stewards that had been [411] suspended would leave. And we immediately went out to the factory and located the five Stewards, and I believe all of the members of the negotiating committee were with them at the same time, told them the request that we had made of the CIO officials, and told them we were going to make the same request of them because

(Testimony of B. W. Railey.)

the CIO officials certainly wouldn't leave if they didn't leave, and they finally agreed to leave.

Q. Anything else unusual occur on July 31, 1945?

A. Well, excepting the result of this statement, they wouldn't be responsible for the consequences. Our factory worked until noontime of that day, and when the noon hour was over there was quite a large number of our people that did not return to work.

Mr. Royster: I move to strike that, as a result of the consequences.

Mr. Hecht: That may go out.

Q. (By Mr. Hecht): The fact is that your people did not come to work?

A. That is right.

Q. What else occurred on that day, if anything?

A. In the afternoon I received a telephone call from Mr. Thompson.

Q. Can you place about the time of it, Mr. Railey?

A. Probably around three o'clock, approximately three o'clock, I would say, asking me if I would come to the Finnish Hall [412] at Berkeley where our employees were holding a meeting. I decided to go, and Mr. Sherman presided at this meeting. They discussed the possibility of our taking the suspended people back to work again.

Q. Were you asked that directly by anyone?

A. We were ask if we would take them back to work.

(Testimony of B. W. Railey.)

Q. Who asked you?

A. I am sure it was put to us by Mr. Sherman who was the Chairman of the meeting.

Q. Yes.

A. They said that was the object of the meeting.

Q. What reply did you make to that request?

A. We referred again to the contract, this paragraph, Section 3.

Q. Was the contract discussed at the meeting?

A. I told them I didn't have a copy of the contract, but I was sure they were familiar with that paragraph, and several of the people who were there said they had copies of the contract, and that sentence was referred to, yes.

Q. You mean that section was referred to?

A. That section, the sentence particularly, that sentence of the section which stated they must be in good standing with the union.

Q. Any other requests made of you at this meeting in addition to that? [413]

A. Oh, they asked for suggestions, or some way that they could work it out so these people could go back to work, but we had no suggestions to make, and again told them that was their— between the employees and the union.

Q. I take it that you left the meeting at some time?

A. Yes, very shortly.

Q. Let me ask you specifically: While you were present at this meeting were any formal reso-

(Testimony of B. W. Railey.)

lutions offered from the floor, passed upon and adopted?

A. I don't recall anything in the way of a formal resolution. They did ask for anyone— invited anyone to make statements that wanted to make a statement, and several people did get up and say that they didn't think anyone should go back to work until they could all go back to work. There was no— there might have been a general feeling that they wouldn't go back, but there was certainly no formal vote or no formal resolution taken.

Q. While you were present? A. No.

Q. And I take it the meeting was still in progress when you walked out? A. That is right.

Q. Let me ask you, Mr. Railey: There has been testimony here in the record (and it is in the record) that a notice was posted on July 28 that called for a meeting of the [414] Employees Welfare Association. Have you ever seen that notice?

A. No.

Q. You haven't? A. No.

Q. Did you ever see it posted?

A. No, sir.

Q. As a matter of fact, you were not in the office July 28? A. I was not there.

Mr. Rowell: He couldn't very well have seen it then.

Mr. Hecht: Just to be sure.

Q. (By Mr. Hecht): I hand you Board's Ex-

(Testimony of B. W. Railey.)

hibit No. 4, Mr. Railey. Will you look at it and tell me if you have ever at any time seen that?

A. (Examining document)

Q. Of course, outside of the time you saw it in my office at lunch time today?

A. No, that is the first time I saw it, in your office today.

Q. Mr. Railey, did you make any attempt to find out the reason why the persons you have named were suspended?

A. Did we make any attempt?

Q. You yourself ever make any attempt?

A. No. [415]

Q. Did you ask the CIO officials?

A. I don't recall of ever asking them, but we were sure that that was— they had the right to suspend anyone for many different reasons.

Mr. Rowell: Now, I ask that that be stricken, Mr. Examiner. It is a matter of his legal conclusion, about being sure they had the right.

Mr. Hecht: No; that is what they told him.

Trial Examiner Ruckel: They told him, assured him that they had the right to suspend—

Mr. Rowell: I didn't understand the answer that way. Is that the way it was?

Mr. Royster: Yes.

Mr. Rowell: He testified, to my hearing, that he never asked them.

Trial Examiner Ruckel: He said he didn't ask them but they told him.

The Witness: The question came up of these

(Testimony of B. W. Railey.)

five men. He told us that they could be suspended for many different reasons and they had to stand trial before they could go back to work.

Q. (By Mr. Hecht): I see. As a matter of fact, the majority of your employees did not work from about noon, July 31, to the morning of August 3, 1945? A. That is correct. [416]

Q. Did you during that period get information from any source as to the nature of the controversy, or what was said to be the nature of the controversy? A. No.

Q. Did you read the Daily Press?

A. Yes.

Q. Was there anything in the Daily Press with reference to this controversy?

A. The racial question came up in the papers, many of the papers that I read.

Q. That was papers published during this period.

A. During the shutdown period.

Q. Did anybody apply to you among the nine named for reemployment during the month of August, outside of the instances you have already related? A. No, no.

Q. Were you at the plant on September 31, 1945?

Mr. Royster: September 1, I think you mean.

Mr. Hecht: September 30. No, pardon me. I have the wrong date entirely.

(Testimony of B. W. Railey.)

Q. (By Mr. Hecht): On or about September 1, 1945?

A. Yes.

Q. Did anything unusual occur on September 1, 1945?

A. Yes. We had a letter presented to us listing a group of additional people that would be suspended at the factory, [417] some 17 or 18 people.

Q. Did that letter come directly to you?

A. No. I think it came to the superintendent of the factory.

Q. To Mr. Altman, that is?

A. I think so.

Q. I hand you Board's Exhibit 13, a copy of a letter dated September 1, 1945, on ILWU stationery, addressed to your company. Will you look at it?

A. (Examining document): Yes, this is the letter.

Q. Did you make inquiry from anyone for the reasons of the suspension of these people other than what is stated in the letter?

A. No, sir.

Q. And no one told you?

A. No, sir.

Q. Upon receipt of that letter, or upon being shown that letter, what did you do?

A. Mr. Wood, Mr. Altman, and myself called them into my office.

Q. Called whom?

A. This group of 18 that are listed in this letter.

Q. Named in Board's Exhibit 13?

(Testimony of B. W. Railey.)

A. Yes, sir. And told them of the receipt of the letter, and what the alternative was. [418]

Q. You called the men in?

A. That is right, men and women.

Q. Was it a meeting? A. Yes.

Q. Was it an orderly meeting?

A. I thought so.

Q. All right. Do you know Mr. Albert Zulaica?

A. I might know him, but I don't know him by name.

Q. I am going to ask you specifically—withdraw that. It has been testified at this hearing, Mr. Railey, that at this meeting of September 1, 1945 you stated in the presence of the persons present, "You must remember that I did not want you to join the union in the first place, and you must take the consequences."

Now, I ask you categorically, did you make any such statement?

A. No, we didn't make such a statement. Mr. Wood presided at this meeting, and on one occasion, possibly more, he told them that the union was of their own selection.

Q. Did you yourself make such a statement?

A. No, sir.

Q. It has been further testified, Mr. Railey, at the same meeting of September 1, 1945, you stated substantially the following:

"We asked you not to have a union, we fought you at it, [419] now you have it, you must be satisfied."

Did you make any such statement?

(Testimony of B. W. Railey.)

A. Well, I couldn't have made such a statement because we didn't fight them at any time.

Mr. Royster: Not responsive.

Mr. Hecht: I think it is responsive.

Trial Examiner Ruckel: He said he didn't make any such statement.

Mr. Royster: I move to strike the answer.

Mr. Hecht: The statement that was made this morning by Mrs. Norris was, "We didn't want you to have a union. We fought you on it." I repeated it to the witness. The witness said he couldn't have made such a statement because "we never fought them."

Mr. Royster: That is right. He said he couldn't have made such a statement.

Q. (By Mr. Hecht): Did you make such a statement? A. I did not.

Q. By the way, Mr. Railey, do you know Mr. Harvey Howard?

A. Only by telephone conversations.

Q. You have never met him personally?

A. No, sir, not to my recollection.

Q. Did Mr. Howard in any conversation you had with him ever request permission for A.F. of L. representatives to call at the plant for the purpose of furthering the campaign of the [420] A.F. of L.?

A. Not in that way. He did ask to see us on a number of occasions, but we declined to talk to him at the time.

(Testimony of B. W. Railey.)

Q. But he didn't ask for permission for A.F. of L. representatives to go through the plant?

A. No, sir, not me.

Mr. Hecht: That is all.

Mr. Edises: May I ask a couple of questions of this witness?

Trial Examiner Ruckel: Yes.

Mr. Edises: I don't care what the order is.

Q. (By Mr. Edises): Mr. Railey, this purports to be a copy of a telegram that was sent to the company on or about the date it bears.

Do you recall receiving such a telegram?

A. (Examining document): No.

Q. Do you know who received the telegram?

A. No. We have a record of having received the telegram in our office, but what happened to it I do not know, and can't find anyone who admits having received it up to date.

Q. In other words, the telegram was received but you can't find your copy?

A. According to our files it was received there.

Q. But now my present question is simply whether, to the best of your recollection, that is a copy of the telegram? [421]

A. Yes, I do recall on our own copy it had four names rather than two at the bottom.

Q. Yes.

A. Lonnberg and Olsen, so that couldn't—

Q. (Interposing): Now, apart from that detail it is, to the best of your recollection, an accurate copy of the telegram? A. Yes, it is.

(Testimony of B. W. Railey.)

Q. Now, I ask you whether prior to the time that you received this telegram you had any knowledge that your employees were withdrawing from the C.I.O. or forming another labor organization?

A. No, we had no knowledge.

Mr. Edises: That is all.

Cross Examination

Q. (By Mr. Royster): Now, Mr. Railey, you testified that on July 30 you protested to the ILWU the requested suspension of these five Stewards?

A. Yes.

Q. Now, how did you make that protest, what did you say?

A. Well, I couldn't tell you what I said. I can only give you a general idea of our feeling, which I can well remember, and what went on at the time. We might be classed as babes in the woods on a thing like this, but it was something entirely new to us, and entirely unexpected, and when this letter was [422] brought to me by Mr. Altman I admit that I was completely non-plussed. I didn't know what to do, or anything about it. At that time I didn't even recall the wording of the contract, which they maintained, and which our best advice afterwards seemed to bear out, that they had a right to suspend people, and as long as they were under suspension, or not in good standing with the Union, that they couldn't work there.

Q. Well, what did you say to the ILWU people by way of protest?

(Testimony of B. W. Railey.)

A. We told them we had no reason for discharging these people as far as we were concerned. It was brought to our attention that we had nothing to do with the matter.

Q. Did you ask them to reconsider their action at all?

A. We pleaded with them not to take action because we needed work, and we need products, a very vital business, and there was no feeling on our part in connection with it.

Q. And you stated that this was an experience new to you? A. That is right.

Q. During the time that you have been at that plant and during the time that this ILWU contract has been in effect, is it true, then, that this is the first occasion where anything like this has happened?

A. No, the first occasion anything bordering on this had happened. I think there had been cases where other people had not been allowed to work there for one reason or another, [423] maybe an individual.

Q. Individual instances?

A. Not a group where they selected five Stewards.

Q. And these five Stewards that were selected were the only Stewards in the plant as far as you knew, isn't that so? A. That is right.

I think that is our complete list of Stewards, isn't it, or was?

(Testimony of B. W. Railey.)

Trial Examiner Ruckel: This was all the Stewards?

The Witness: That was all we had at the time, wasn't it, Mr. Altman?

Mr. Altman: That is right.

The Witness: Five Stewards represented in the entire group.

Q. (By Mr. Royster): Did Mr. Altman tell you on July 30 that a notice had ben posted on the bulletin board on the previous day advertising a meeting of the Employees Welfare Association?

A. No, he did not.

Q. Did you know on the morning of July 30 that such a meeting was scheduled to be held on the afternoon of that day?

A. I had no intimation of it of any kind, no knowledge.

Q. When did it come to your knowledge that such a meeting had been held, or was being held?

A. When they telephoned me in the middle of that afternoon [424] asking me to come up and attend the meeting.

Q. Now we are talking about different dates, Mr. Railey. You received an invitation by telephone to attend a meeting on July 31. I believe that was your testimony. Is that not correct?

A. Well——

Q. I am not trying to confuse you.

A. No, there is some question in my mind about the date, whether it is July 30 or 31.

(Testimony of B. W. Railey.)

Q. Well, perhaps we can fix it this way: The meeting to which you received an invitation, and which you attended, took place on the afternoon after the employees had left the plant?

A. Well, then, it was July 31.

Q. Now, when did you gain knowledge that there was a meeting on the afternoon of the preceding day, that is, on July 30?

A. Well, when our employees failed to come back to work.

Mr. Hecht: I don't think he testified he had knowledge of the meeting of July 30.

Mr. Royster: I don't think he did either.

Mr. Hecht: No.

Mr. Royster: I am trying to find out now.

Mr. Hecht: Yes.

Mr. Royster: I think we are still talking at cross [425] purposes.

Q. (By Mr. Royster): The testimony shows so far that there was a meeting of your employees on the afternoon of July 30? A. Yes.

Q. On the following day four committeemen, whom you named, came to your office and interceded on behalf of the Stewards. When their intercession was fruitless, at noon of that day the employees walked out, and then held another meeting, which was the meeting that you attended?

A. On the 31.

Q. I am asking you now with reference to this meeting on July 30. When did you learn that such a meeting had been held?

(Testimony of B. W. Railey.)

Trial Examiner Ruckel: Well, ask him if he did learn it.

Q. (By Mr. Royster): Or did you learn that such a meeting had been held?

A. I didn't know too much about the meeting, but I know our Superintendent reported to me a lot—a large number of employees didn't come back to work, they all went away in automobiles at noon that day, and we were told, or some way got the information that they had gone to attend a meeting some place.

Q. That is on the 31st?

A. No; that is on the 30th. [426]

Trial Examiner Ruckel: What day of the week was the 30th, do you recall?

The Witness: A Monday.

Mr. Hecht: The 30th was Monday.

Did you hear about any meeting on the 30th, on Monday?

The Witness: Well, no official notice. As I say, they all drove away. I say "all"; a large number of them did. When they didn't come back, we were told they were holding a meeting some place.

Mr. Rowell: Well, now, it is perfectly proper to tell the witness what the dates were because we stipulated to it.

Mr. Hecht: Yes. It has been stipulated, it has been testified here, Mr. Railey, there was a meeting at 4:30 on the 30th.

Did you ever hear about that meeting at 4:30 on the 30th?

(Testimony of B. W. Railey.)

The Witness: I couldn't identify such a meeting, either the time or couldn't certify that there was a meeting, either one.

Mr. Hecht: All right.

Q. (By Mr. Royster): Of course, I was not asking for certification. I was asking you to tell me when, or if you ever heard of such a meeting, and I believe you testified that you are not sure you did.

A. Only as I say, that when the people went away the report [427] went around they had gone to attend a meeting on this Monday, July 30. I didn't check up to see what the time of the meeting was, or where it was, or who was involved.

Q. Now, it was on Tuesday, July 31, that the four men came to your office and asked that the Stewards be replaced or reinstated. Did any one of them tell you that they had been selected at a meeting of employees? A. No.

Q. During the time that these four men were in your office, did you not receive a copy of a telegram which Mr. Edises showed to you?

A. As I testified before, I had never seen the telegram. It was news to us.

Q. And it is your testimony now that on the morning of July 31 you did not receive a copy of that telegram, which is Board's Exhibit No. 6?

A. That is right.

Q. Now, you testified that these ILWU representatives on the 30th day of July, after reminding you of the contract terms, told you that if the

(Testimony of B. W. Railey.)

Company did not discharge the Stewards the ILWU would, is that correct? A. That is correct.

Q. Does the ILWU discharge the people at your place, Mr. Railey?

A. No, but they do tell us who can work there and who [428] cannot.

Q. Well, what meaning did you gather from this, that if you did not discharge them the ILWU would?

A. I gathered if we did not want to tell them they were under suspension that they would, in other words, it referred to a suspension.

Q. Now, again on July 31 when the four Stewards were in your office, is it not a fact— not four Stewards,—

A. The negotiating committee.

Q. The four on the negotiating committee were in your office, is it not a fact those four men were told they would be suspended from the ILWU?

Trial Examiner Ruckel: Told by whom?

Mr. Royster: Told by the ILWU representatives? A. That I couldn't say.

Q. (By Mr. Royster): You didn't hear that?

A. I don't think they intimated such a thing at the time, but that I couldn't—there may have been a suspension on the road to those four at the time for all I know.

Q. Well, wasn't it said in your presence by ILWU representatives that "You four are going to be suspended"? A. I don't recall that.

(Testimony of B. W. Railey.)

Q. Yes. There was a pretty acrimonious exchange between the ILWU and the four committeemen during part of that meeting, was there not, Mr. Railey? [429]

A. I don't know what is the right word to use for it. As I say, they were reminded of their oath and, of course, Mr. Sherman, who was speaking for the negotiating committee, accused the Union of failure to get increases for the men and for the people working there. And Mr. Lynden for the Union did bear down to the extent that they had taken an oath, and they had failed to observe it, and he pointed out what happened to a traitor for the United States, and they were a traitor to their Union, that they had the right to discipline their people. In fact, he said— this was when the war was still on— he said they had many times been called upon to discipline people, keep them working. And he said even in the shipyards they had been called upon to discipline people outside of working hours who were inclined to drive fast, or drink, or something like that, to try to keep them working, because the government said, "Unless you straighten your man out he can't work here." And it was a defense of the CIO by Mr. Lynden, naturally, and their policies, and resentment on the part of Mr. Sherman, who was a former Business Agent, and whether he was disappointed or what I couldn't say, but at any rate, he was obviously not in sympathy with CIO.

Q. Well, it became quite apparent as this con-

(Testimony of B. W. Railey.)

versation took place that there was a schism developing in the ranks of the CIO, of the ILWU, did it not, at the plant? [430]

A. It certainly was, at least between the CIO and certain individuals. Whether it was, what percentage——

Q. Well, I believe you testified (and if you didn't you can correct me) that these four— strike that.

I won't press that question.

Trial Examiner Ruckel: During this meeting was the AF of L mentioned by anybody?

The Witness: No.

Q. (By Mr. Royster): Was the Employees Welfare Association mentioned by anyone?

A. No. If I may bring it up, I don't think the AF of L came into it until some time later.

Trial Examiner Ruckel: How much later?

The Witness: Well, I don't know. Maybe Mr. Wood would have a better recollection of the date than I have.

Trial Examiner Ruckel: In what form did it come to you?

The Witness: Well, it didn't come to us in any form, except when Mr. Howard got into the thing. Mr. Howard was not in the original— in other words, according to my understanding——

Trial Examiner Ruckel: Who is Mr. Howard?

The Witness: He was the man who was presumed to represent this group at one time. I be-

(Testimony of B. W. Railey.)

lieve he is the head of one or two unions on the other side of the Bay, or was at that [431] time.

Q. (By Mr. Royster): Now, sometime early in August, perhaps the 5th, 6th, 7th, or 8th, along in there, the Respondent was advised, was it not, that a petition had been filed by the AF of L, seeking certification as bargaining representative of the employees at Peet's? A. Yes.

Q. And is it true that after you learned of the filing of this petition that it became apparent that there was campaigning in the plant by both sides?

A. Yes, sir.

Q. Each seeking to secure the favor or support of the employees? A. That is right, yes, sir.

Q. And that condition continued for some time?

A. Yes, sir.

Q. What was the position of the company with respect to this campaign, Mr. Railey?

A. Well, we certainly were not enthusiastic about it in any respect, either on the part of the CIO or any group that was apposed to the CIO, because it certainly interfered with our production.

Q. Did you have any favor for either side?

A. No, I wouldn't say that we have.

Q. Did you ever advise the employees that you stood [432] neutral?

A. There was no official notice of any kind, no, but we certainly tried to, in all of our discussions among ourselves and everything, we took the position that it didn't make any difference who represented the employees to us.

(Testimony of B. W. Railey.)

Q. That was in your discussions among your management group, you mean?

A. That is right.

Trial Examiner Ruckel: Does the record show when this petition was filed?

Mr. Hecht: I think it does.

Mr. Royster: Yes, it does. The complaint alleges it and I believe the answer admits it, and, incidentally, I plan to introduce the decision and direction of election.

Trial Examiner Ruckel: What was the date of the filing of the petition, do you recall?

Mr. Royster: I believe it was August 3rd, but I will have to check that.

Mr. Hecht: August 3rd is correct.

Mr. Royster: August 3rd.

Mr. Hecht: Pardon me, Mr. Royster. When you say August 3rd, it was filed with the Board August 3rd.

Mr. Royster: Yes, it was filed with the Board on August 3rd.

Trial Examiner Ruckel: Well, let us go further and [433] stipulate what happened. Was there a hearing?

Mr. Royster: Yes. That is set forth in the complaint too. I guess there would be no objection to stating now what happened and see if everybody is in agreement with it.

The petition was filed with the Board on August 3, 1945. On August—

(Testimony of B. W. Railey.)

Mr. Hecht: May we go off the record, Mr. Examiner?

Trial Examiner Ruckel: I would like this on the record.

Mr. Hecht: Just for one moment.

Trial Examiner Ruckel: Off the record, please.

(Remarks outside the record.)

Trial Examiner Ruckel: On the record.

Mr. Royster: Well, may it be stipulated by the parties that on August 3, 1945, the AF of L filed a petition in Case 20-R-1486; that on August 8, 1945, the company, the ILWU and the AF of L met at the office of the Board in San Francisco and held a preliminary conference on the petition; that on August 14, 1945, notice of hearing on the petition was issued, and that this notice of hearing was received by the company on August 17; that on August 22, a hearing in the representation case was held in San Francisco; that on September 26, 1945, a decision and direction of election was issued by the Board, and on October 16, 1945 an election in pursuance to the decision and direction of election was conducted? [434]

Trial Examiner Ruckel: What was the result of the election?

Mr. Royster: The result of the election was as follows: The approximate number of eligible voters; 390——

Mr. Hecht: 300— how many?

Mr. Royster: 390.

Trial Examiner Ruckel: 390.

(Testimony of B. W. Railey.)

Mr. Royster: Void ballots, 6; votes cast for the AF of L, 126; votes cast for the ILWU, 181; votes cast against participating labor organizations, 1; valid votes counted, 308; challenged ballots, 44; valid votes counted plus challenged ballots, 352.

Mr. Rowell: Now, Mr. Royster, that total number of 390 includes some service men who were employed there at the time, doesn't it?

Mr. Royster: I don't know whether it does or not.

Mr. Rowell: Does it not also include some discharged— these discharged employees as well as those who took their places?

Mr. Royster: I assume that it does, but I don't see that it is material.

Trial Examiner Ruckel: I don't either, but did it include the——

Mr. Rowell: (Interposing): Well, the figure is slightly swollen from the previous—— [435]

Mr. Royster (Interposing): Well, there was an increase.

Mr. Hecht: The plant got back the full complement. There were some service men that were working part time. The displaced employees voted, so that probably accounts for the 390.

Trial Examiner Ruckel: Did the individuals named in the complaint vote?

Mr. Royster: They cast challenged ballots, Mr. Examiner, almost all of them, perhaps all of them. I don't know.

(Testimony of B. W. Railey.)

Well, I think we have come to the end of the stipulation.

Trial Examiner Ruckel: Yes. May the facts as set forth by counsel be stipulated to?

Mr. Rowell: Yes.

Mr. Hecht: Yes.

Mr. Edises: As set forth in Mr. Royster's stipulation without the various interpolations?

Trial Examiner Ruckel: Well, naturally, yes.

Mr. Edises: So stipulated.

Mr. Rowell: So stipulated.

Mr. Hecht: So stipulated.

Trial Examiner Ruckel: And subject to the official record anyway.

Mr. Edises: Yes. I suggest we introduce into the record the official direction of election and tally.

Mr. Royster: Well, I wish to make one statement here [436] which, of course, is not a stipulation by anybody. Then I will offer the decision and direction of election. The statement is merely to clear up the record on this particular point, that challenged ballots were not sufficient in number to affect the result of the election, but that the election was protested by the AF of L, and that there has been no final determination of the objections filed.

Mr. Examiner, I offer in evidence as Board's exhibit next in order the decision and direction of election in Case No. 20-R-1486.

(Thereupon the document above referred to

(Testimony of B. W. Railey.)

was marked Board's Exhibit No. 14 for identification.)

Mr. Hecht: May we go off the record for a moment?

Trial Examiner Ruckel: Off the record.

(Remarks outside the record.)

Trial Examiner Ruckel: Is there any objection to Board's 14 being received?

Mr. Rowell: No, no objection.

Mr. Hecht: No objection.

Mr. Edises: That is the decision, is it, Board's 14 is the decision?

Trial Examiner Ruckel: Yes. It will be received.

(Thereupon the document heretofore marked Board's Exhibit No. 14 for identification was received in evidence.) [437]

Mr. Edises: How about the tally? Have you got a copy of the tally?

Mr. Royster: It is in the stipulation or rather—yes, it is in the stipulation.

Mr. Hecht: You want the official tally?

Mr. Edises: Well, I guess that is enough.

Trial Examiner Ruckel: Are there any further questions of the witness?

Mr. Royster: No further questions by the Board.

Trial Examiner Ruckel: Any questions by the AF of L, Mr. Rowell?

Mr. Rowell: Yes, I have one or two. I am little bit confused by this telegram situation.

(Testimony of B. W. Railey.)

Q. (By Mr. Rowell): Mr. Railey, showing you Board's Exhibit 6, namely, the telegram sent by the Employees Welfare Association, can you tell me when that telegram first came to your attention?

A. It first came to my attention day before yesterday, I think, when we were looking it up.

Q. Well, now, when Mr. Edises was questioning you didn't you identify this as a true copy of a telegram that you had received?

A. Not a true copy, but the wording is approximately the same.

Q. Well, with what original document were you comparing it [438] in your memory?

A. With our file copy at the Berkeley office which we found in the files over there. It is not a true copy to this extent: the file copy that we have was addressed with my name on the top, it carried four names at the bottom instead of two.

Q. Now, furthermore, your testimony as to the issues involved in this trouble, certainly the presence of the AF of L in the picture cleared up your doubts as to what were the issues, didn't it?

Mr. Hecht: I object to that question.

Trial Examiner Ruckel: Objection sustained.

Q. (By Mr. Rowell): The conversation between this committee of four and the CIO union officials, in substance Mr. Sherman's position was that he and other employees were dissatisfied with the conduct and action of the CIO union, is that right?

(Testimony of B. W. Railey.)

Mr. Hecht: Well, he stated the facts, Mr. Rowell. There is no point in asking for his conclusion now.

Trial Examiner Ruckel: Well, counsel has the right to cross examine. The witness stated I think, or said that the CIO was reproached for not having obtained increases in wages and things like that.

Mr. Rowell: That was only preliminary.

The Witness: As far as the negotiating committee was [439] concerned, all they were asking us for was to reinstate these five people.

Q. (By Mr. Rowell): I know, but in this conversation between the negotiating committee and the CIO Union in your presence I believe you testified that among other thing there was an expression of dissatisfaction by Mr. Sherman as to the wage standards of the CIO union and such things as that?

Mr. Edises: Well, I will submit an objection, that the testimony speaks for itself as to what he said.

Trial Examiner Ruckel: This is preliminary.

Mr. Rowell: This is preliminary, that is all.

Q. (By Mr. Rowell): Is that in substance what Mr. Sherman said, or do you wish to put it in your own words?

A. No, I wouldn't say that he made the flat statement that he— in the way you put it.

Q. Well, put in your own words then.

(Testimony of B. W. Railey.)

A. Sometime during the discussion the question of advances, increases in wages came up, and the CIO people explained to Mr. Sherman that they were powerless to get any increases under the Stabilization Act and so forth.

Q. Yes.

A. And they had gotten all for Colgate employees that anyone could get.

Q. Well, now, that conversation came up, you say. Now, did Mr. Sherman bring it up? [440]

A. No, I think the CIO people brought it up in their defense of the CIO handling of the Colgate situation.

Q. Well, now, you say they were making a defense against something. There must have been some sort of an accusation made. What I am trying to get at is that. What did the committee of four say to the CIO people?

A. Well, frankly, I don't recall that they started the discussion in that at all.

Q. You mean this discussion was all one-sided, just the CIO people talking?

A. No, it was not one-sided, but the CIO's argument with Mr. Sherman was over the question of reinstating these five people, and reminding him of the contract and his knowledge of the Union constitution, and what the CIO stood for, and what they had done for Colgate employees. Maybe "defense" is a bad word, but, in other words, that was——

Q. (Interposing): Now, what did anybody of

(Testimony of B. W. Railey.)

the committee say to the CIO people as to what the CIO had done or failed to do?

A. Oh, I don't recall that they said anything that was——

Q. (Interposing): You seem to be able to recall half of the conversation and only one side of it?

A. No, I——

Mr. Edises (Interposing): Now, I object to that kind of characterization. [441]

Trial Examiner Ruckel: Objection sustained.

Mr. Rowell: I am just asking for the cooperation of the witness.

Trial Examiner Ruckel: Let's find out if there was another side of the conversation.

Q. (By Mr. Rowell): What charges did the CIO—I withdraw that.

Did the CIO people say that Sherman was misleading the employees?

A. No. When we brought these people in there—you asked for my cooperation. I will tell you again that our interest in the thing was to keep our plant running and to see if we could get them together in connection with the suspension of these five people and go to work. And the CIO then at length explained their entire position, their constitution, and so forth, to Mr. Sherman.

Q. I realize that, Mr. Railey, but you have told me that in addition the CIO defended their actions so far as obtaining wage increases for the employees and matters of that kind. It only occurs to me

(Testimony of B. W. Railey.)

that there must have been a discussion back and forth between the two groups, one side said, "No, you didn't do it," and the other side said, "Yes, you did do it"?

A. I can appreciate it naturally would occur to you that there are two sides to it, but I have no recollection in [442] mind along that line.

Q. Well, is your recollection better as to the matter of the turmoil in the plant to which you objected? You mentioned that there was a certain amount of turmoil and conversation and talking back and forth between the employees which was causing the trouble.

Can you elaborate on that? Can you state what the nature of the turmoil was?

A. Well, I can say this: that our stewards during that time were doing no work, and a lot of people in the plant were not doing any work. The CIO people had their men going through the plant checking on who was apparently in good standing or who was not, but there was just too much turmoil in the factory to suit us, and you could walk through the factory and see groups talking here and groups talking there and no work being done.

Q. Did you hear what the groups were talking about? A. No; no.

Q. Did you obtain information from other people in the company as to what they were talking about? A. No.

Q. What you saw, however, indicated that there

(Testimony of B. W. Railey.)

was at least a difference of opinion amongst certain employees as to a union?

Mr. Hecht: I object to that as calling for the conclusion [443] of the witness.

Trial Examiner Ruckel: Objection sustained. This was just prior to the election, this period of turmoil?

Mr. Rowell: No.

The Witness: No, it was not just prior to the election. It was largely in the day before they discontinued work, before noon time; largely that morning.

Q. (By Mr. Rowell): That would be on July 30, 1945? A. July 30.

Q. And when you attended this meeting at the Finnish Hall (and it has been stipulated that it was July 31, 1945), while you were present, was there any action, formal or otherwise, taken to indicate to you the employees' support of the case of these five shop stewards? Was there a show of hands, for example?

A. I don't know anything—

Mr. Edises (Interposing): Well, now, I object to that as immaterial. What is the significance of whether there was any showing of support or not?

Trial Examiner Ruckel: Read the question.

(The question referred to was read by the reporter.)

Mr. Edises: Furthermore, there is no dispute that the meeting was called.

(Testimony of B. W. Railey.)

Trial Examiner Ruckel: Objection sustained.

Mr. Rowell: No further questions. [444]

Trial Examiner Ruckel: Mr. Hecht, do you have anything further?

Mr. Hecht: Yes, Mr. Examiner.

Redirect Examination

By Mr. Hecht:

Q. Mr. Railey, what is manufactured at your plant in Berkeley?

A. Laundry soap, toilet soap, and glycerin are the principle products.

Q. You were manufacturing glycerin during this period? A. Yes, sir.

Q. And that, I take it, is a war implement?

A. I beg your pardon?

Q. Is that a war implement?

A. Very much so.

Q. Well, do you remember what your production was at the time?

A. Well, it varied for months, but I would say we produced between four and five hundred thousand pounds a month.

Q. Did this work stoppage interfere with your production of glycerin? A. Bound to.

Q. It did interfere with it? A. Yes.

Mr. Hecht: I think that is all.

Mr. Rowell: One or two questions come to my mind on that [445] score.

(Testimony of B. W. Railey.)

Recross Examination

By Mr. Rowell:

Q. You say when a request was made of you by the CIO for the discharge of these employees you resisted it? A. Yes.

Q. And what was your reason for resisting that request of the CIO? I believe you stated it. I wish you would state it again.

Mr. Edises: It has already been asked and answered. I object to it on that ground.

Trial Examiner Ruckel: I believe he said he protested, not resisted.

Q. (By Mr. Rowell): Now, isn't it a fact that in acceding to the request of the CIO it interfered with your production in the plant likewise?

Mr. Hecht: Objection.

Trial Examiner Ruckel: Objection sustained. He said there was a contract.

Mr. Rowell: Well, I mean it is certainly just as immaterial for Mr. Hecht to bring out that this work stoppage interfered with the production, and then to prevent me from bringing out that the discharges of these old competent employees likewise caused an interference with war production, and that was caused by the CIO union. [446]

Trial Examiner Ruckel: There was no objection to Mr. Hecht's question, or I might have sustained the objection to it.

Mr. Rowell: That is the reason I didn't object to it.

(Testimony of B. W. Railey.)

Mr. Edises: Mr. Rowell wants us to get into the chicken and the egg argument. ILWU's position is there is no provocation for engaging in strikes during wartime.

Trial Examiner Ruckel: Any further questions?

Redirect Examination

By Mr. Edises:

Q. I would like to ask Mr. Railey whether during the period of the war there had been any other strikes, any strikes of any kind at your plant prior to this episode?

A. No, sir.

Q. Do you know what the ILWU's position was on strikes during wartime?

Mr. Royster: Object. What difference does it make whether he knew or not?

Trial Examiner Ruckel: Objection sustained.

Mr. Hecht: Mr. Examiner, I may interpolate here that the question here has been whether or not the company had knowledge of the reasons why these men were being suspended. I maintain that if Mr. Railey knew——

Trial Examiner Ruckel: (Interposing) Yes, I concede possible materiality to the question. I change my ruling. He may answer if he is aware of it.

What was your question again, please?

Mr. Edises: Would you mind reading the question?

(The question referred to was read by the reporter.)

A. I do.

(Testimony of B. W. Railey.)

Q. (By Mr. Edises): What was that position?

A. There should be no work stoppage, no strikes, no lockouts.

Q. You have a number of colored employees at your plant, do you not? A. Yes, sir.

Mr. Rowell: That is objected to as immaterial.

Trial Examiner Ruckel: The answer may stand.

Q. (By Mr. Edises): And the ILWU has supplied colored workers as well as white workers to your plant, have they not? A. Yes, sir.

Mr. Rowell: Objected to as immaterial.

Trial Examiner Ruckel: He may answer.

Q. (By Mr. Edises): And, to your knowledge, has there ever been any discrimination by the ILWU colored workers?

A. None whatever at our plant.

Q. After this difficulty started, did you hear from any source that the issue of discrimination, of racial discrimination, was present, was in the picture?

Mr. Rowell: That is objected to on the grounds it is [448] hearsay.

Trial Examiner Ruckel: He may answer.

A. All that I knew is what I read in the newspapers.

Q. (By Mr. Edises): Did you read of such a charge in the newspapers? A. Yes, sir.

Mr. Rowell: Mr. Examiner, this is really far-fetched.

Trial Examiner Ruckel: What is the objection?

(Testimony of B. W. Railey.)

Mr. Rowell: He read it in the newspapers, and they are offering that as testimony.

Mr. Hecht: On direct he testified that he read about the controversy at the plant in the newspapers, and it was one of the statements made in the newspapers.

Trial Examiner Ruckel: We want to know what was in his mind. There may have been none such, so far as the fact of the matter is concerned, but if he believed it, why, that would be the material thing.

Q. (By Mr. Edises): Were you aware, Mr. Railey, that there had been charges filed against or rather, made against the stewards at the plant that they were inadequately fulfilling their duties as stewards?

A. I did not know what the charges were against the stewards.

Q. You did not know what the charges were?

A. No. [449]

Q. Did you know that there were some such charges? A. No, sir.

Mr. Edises: That is all.

Trial Examiner Ruckel: Any further questions?

Mr. Royster: No questions.

Mr. Rowell: No questions.

Trial Examiner Ruckel: That is all.

(Witness excused.)

We will recess for ten minutes.

(A short recess was taken.)

Trial Examiner Ruckel: Call the next witness.

Mr. Royster: Thomas Azevedo.

THOMAS AZEVEDO

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Royster:

Q. Will you state your name and address, Mr. Azevedo?

A. Thomas Azevedo, 1326 88th Avenue, Oakland.

Mr. Hecht: Mr. Royster, before we go farther, would this witness be one subject to that stipulation that went in this morning?

Mr. Royster: Yes, sir.

Q. (By Mr. Royster): Did you come to the Respondent's [450] plant on August 31?

A. Yes, I did.

Q. Will you tell me what happened when you approached the plant?

A. Well, when I came to the gateway there was about 12 of the union men there, and three standing in front of the radiator of the car, and two on each side, on the running board, and Gleichman, he handed me a letter and said, "Here is this letter," and said, "Take it back to your union, see if they can put you back to work, you are so crazy about them."

Q. Did you enter the plant—

Mr. Hecht: I make the formal motion I have

(Testimony of Thomas Azevedo.)

been making, Mr. Examiner. May that testimony be stricken on the ground it is not binding on the Respondent, no executive or supervisory employee of respondent's being present, and not occurring in respondent's plant.

Trial Examiner Ruckel: You may have a standing objection to the entire line of testimony.

Mr. Hecht: Very well. Is that agreed and stipulated to, gentlemen?

Mr. Royster: Well, no.

Mr. Rowell: No.

Trial Examiner Ruckel: You may have a standing objection and exception and the objection is overruled. [451]

Mr. Hecht: All right.

Q. (By Mr. Royster): Now, did you enter the plant?

A. I couldn't, the gate was locked. It wasn't locked, but Mr. Carter was holding the gate closed.

Q. Mr. Carter? A. Mr. Carter.

Q. Is that Mr. Cecil Carter?

A. Cecil Carter, that is right.

Q. Assistant superintendent?

A. That is right.

Q. Since August 31 have you worked for the company? A. No, sir.

Q. Did you go to the respondent's plant on September 4, 1945? A. That is right.

Q. And did you speak to anyone there?

A. Well, I went in there to pay my hospitalization.

(Testimony of Thomas Azevedo.)

Q. And did you have a conversation with anyone?

A. Well, Mr. Wood came out to the gate when I was coming home.

Q. And did you have a conversation with Mr. Wood?

A. Yes, I did. As I walked out of the gate he asked me, "Did you get everything you wanted?" I said, "No, I got what I wanted except my job."

He said, "Well, why don't you go up to the union hall [452] and straighten yourself out?", and I said, "Well, I wouldn't have a chance if I did go up there. I was guilty before I was proved guilty." He said, "No, you go up there and ask for a trial, and I will come up there and see that you get a fair trial. If you would have kept your mouth shut in the first place you wouldn't be in the mess that you are in now."

Mr. Royster: That is all.

Trial Examiner Ruckel: Any further questions?

Mr. Hecht: Just a moment, if you don't mind, Mr. Examiner. Mr. Wood can't hear very well, and could we have the testimony referring to Mr. Wood read back by the reporter?

Trial Examiner Ruckel: Will you read it back please, the last bit applying to Mr. Wood?

(The testimony referred to was read by the reporter.)

Trial Examiner Ruckel: Any further questions for the A F of L?

Mr. Rowell: No, no questions.

(Testimony of Thomas Azevedo.)

Trial Examiner Ruckel: Cross examine.

Mr. Hecht: I have no questions.

Mr. Edises: No questions.

Mr. Royster: You are excused, Mr. Azevedo.

(Witness excused.)

Mr. Royster: We will call Vincent Barboni.

VINCENT BARBONI

called as a witness by and on behalf of the National Labor [453] Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Royster:

Q. State your name and address, please.

A. Vincent Barboni, 1625 Francisco Street.

Mr. Hecht: Mr. Examiner, may we ask that the witnesses speak up?

Trial Examiner Ruckel: You will keep your voice up as loud as possible.

The Witness: Yes.

Q. (By Mr. Royster): Were in Mr. Railey's office on September 1, 1945, Mr. Barboni?

A. Yes, I was.

Q. Will you tell us what took place there?

A. Well, Mr. Railey and Mr. Wood read that paper off with all the names.

Q. Telling you of your suspension?

A. Yes, sir.

(Testimony of Vincent Barboni.)

Q. And was there a further conversation that you heard?

A. Well, there was quite a bit of talk.

Q. And what was the talk?

A. Well, it was about these people being suspended, and why they were suspended.

Q. Well, what was said that you now recall?

A. Well, there was some talk about if we didn't wear union [454] buttons we wouldn't be where we were then.

Q. Well, was it one of the group of employees who said that? A. No, it was Mr. Railey.

Q. Mr. Railey? A. Yes.

Q. Said that if you hadn't worn union buttons you wouldn't be where you are now? A. Yes.

Mr. Royster: That is all.

Cross Examination

By Mr. Hecht:

Q. Mr. Barboni, do you know Mr. Railey?

A. Yes, I do.

Q. Did you see him here today? A. Yes.

Q. What was he doing here?

A. Well, he testified.

Q. And you are sure he said that?

A. Yes.

Q. There is no doubt in your mind about it?

A. No.

Q. What else do you remember was said?

A. Well, I don't know; Mr. Wood talked; Mr. Altman talked.

(Testimony of Vincent Barboni.)

Q. And what makes it stand out in your mind that Mr. Railey said that if you hadn't worn union buttons you [455] wouldn't be in the trouble you are in?

A. Well, it is just something, one of the things I remember.

Q. He didn't say that if you hadn't distributed you wouldn't be in the trouble you are in?

A. No, I don't remember that.

Q. He didn't say that if you had kept your mouth shut you wouldn't be in the trouble you are in?

A. Well, I have heard that, but I couldn't say just who said it.

Q. You say you heard that but you don't know who said it?

A. Yes.

Mr. Hecht: I have no further questions of the witness.

Q. (By Mr. Edises): When did you join the A F of L, Mr. Barboni?

A. Oh, it was right about the beginning.

Q. Roughly when, do you know? Can you fix it with relation to some event?

A. Well, it was about a week or so before the walkout; a week or so before the walkout.

Q. A week or so before the walkout?

A. Well, a continuous meeting, or whatever you want to call it.

Q. You are quite sure of that?

A. Well, no, but then the record would show it, the book. [456]

(Testimony of Vincent Barboni.)

Q. Well, you testified to that just a moment ago, didn't you? A. To what?

Q. That you joined the A F of L a week or two before the lockout?

A. Well, I think I was one of the first ones to join the A F of L.

Q. Well, now, just answer my question. Didn't you testify that you joined the A F of L a week or two before the lockout? A. Yes.

Q. Before the walkout?

A. Before the walkout.

Q. Now, that might be a little bit inaccurate one way or the other? A. Yes.

Q. It might be a day or two off, is that right?

A. Yes.

Q. And are you just as sure of that testimony as you are of the testimony about Mr. Railey?

Mr. Rowell: That is objected to.

Mr. Edises: That is a perfectly legitimate question, Mr. Examiner. This is cross examination. I want to test the witness' credibility. I have a right to.

Trial Examiner Ruckel: I don't think it is proper to compare and weigh one answer against some other answer. [457] Objection sustained.

Q. (By Mr. Edises): What would you say, Mr. Barboni—what would your answer be if the fact were that the A F of L didn't even come into the picture until after the walkout? Would that change your answer in any way?

A. Well, I don't know just what you mean.

(Testimony of Vincent Barboni.)

Mr. Hecht: Mr. Examiner, may we go off the record?

Trial Examiner Ruckel: Off the record.

(Remarks outside the record.)

Mr. Edises: No further questions.

Mr. Royster, the stipulation this morning applies to this witness too?

Mr. Royster: Yes.

Trial Examiner Ruckel: Well, Mr. Railey made mention of your button. Did he say what kind of a button?

The Witness: No, but I took it for A F of L.

Trial Examiner Ruckel: He didn't say "A F of L?"

The Witness: No.

Trial Examiner Ruckel: Any further questions? (No response.) That is all.

(Witness excused.)

Mr. Edises: Mr. Royster, could we have a stipulation as to the time that the previous witness joined the A F of L?

Mr. Royster: Barboni?

Mr. Edises: Mr. Azevedo. [458]

Mr. Royster: Oh. August 3, he told me he signed an A F of L card.

Mr. Edises: Will that be stipulated?

Mr. Royster: That is agreeable to the Board.

Mr. Edises: So stipulated.

Mr. Hecht: So stipulated.

Mr. Royster: Ann Cerrato.

ANN CERRATO

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Royster:

Q. Will you state your name and address, please?

A. Ann Cerrato, 1028 62nd Street, Oakland, California.

Mr. Hecht: May we have the same instruction to this witness, please?

Trial Examiner Ruckel: Keep your voice up, please.

Q. (By Mr. Royster): Were you in Mr. Railey's office on September 1, 1945?

A. I was.

Q. What took place there?

A. Well, we went in there, and the letter was read to us that we were all—we were dismissed by the company because we were in bad standing with the union. And then there was [459] some talk about it and some questions brought up by Kay Norris and Terry Anderson and some of the other workers in there, but I didn't ask any questions myself.

Q. Well, did you hear any of the questions and were there any answers to the questions?

A. Yes. I heard one question when Kay Norris

(Testimony of Ann Cerrato.)

said whether the reason we were being laid off was because we wore the A F of L buttons.

Q. And was there any answer to that remark?

A. Well, I don't recall that there was, but according to—about the union, Mr. Railey did make the statement that they didn't want the union in there in the first place, and we had it, we got it in there, so we had to take the consequences.

Q. Now, did Mr. Wood have anything to say at this meeting?

A. Well, Mr. Altman and Mr. Railey did almost all the talking for the company.

Q. What did Mr. Wood say, and speak up loudly so we can hear you?

A. I can't remember, can't recall exactly what Mr. Wood did say.

Mr. Royster: That is all.

Q. (By Mr. Rowell): Were you there when the union was originally organized at the plant?

A. You mean the ILWU? [460]

Q. Yes.

A. We were transferred over from Local 96 to the Warehouse Union on July 1, 1941.

Q. Did you have any information as to the company's attitude toward union organization at that time?

Mr. Edises: Just a moment. I object to that.

Trial Examiner Ruckel: Objection sustained.

Mr. Rowell: Well, now—well, all right, I won't press it.

No further questions.

(Testimony of Ann Cerrato.)

Mr. Hecht: I have just one question, Miss Cerrato.

Cross Examination

By Mr. Hecht:

Q. There were about 18 of you in this room?

A. There was.

Q. And since the time this incident occurred, have you had occasion to discuss with the other 18 just what happened there?

A. If I talked about it to anyone?

Q. Yes. I mean whether you conferred with Mrs. Norris or with Mr. Hellbaum or with any of the other people who were present there on September 1? Have you talked it over with them?

A. Well, we all talked about it after we got out of his office because we all went to the same place.

Q. Sure, and have you since that time talked about it again?

A. Well, off and on everybody has.

Q. And you attended that trial on September 17?

A. I certainly did.

Q. And it could be quite possible that you didn't hear some things that the other people thought they heard? That could be possible, couldn't it?

A. About what do you mean, at the trial?

Q. That is, certain things were heard by the others that you didn't hear?

A. Well, I heard Mr. Railey say that——

Q. (Interposing) I am not asking you that question. Please stick to my question, if you will.

(Testimony of Ann Cerrato.)

In other words, it is quite possible (there were 18 of you there) that you did not hear what the other 17, or the other 16, or the other 15, or the other 5 might have heard? Some things might have escaped you? A. Some of them probably did.

Q. You might have been told some of the things that escaped you; that is true?

A. I am repeating what I heard myself.

Mr. Hecht: Answer my question. Will you read my question?

(The question referred to was read by the reporter.) [462]

Q. (By Mr. Hecht): I am asking you whether you were told some of the things that you yourself didn't hear? A. I was.

Mr. Hecht: That is all.

Q. (By Mr. Edises): Miss Cerrato, are you a member of the A F of L Chemical Workers Union?

A. I am.

Q. When did you join that union?

A. August 3, 1945.

Mr. Edises: That is all.

Mr. Royster: Thank you.

(Witness excused.)

Mr. Royster: Felix Stanley Denkowski.

FELIX STANLEY DENKOWSKI

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Royster:

Q. State your name and address, please.

A. Felix Stanley Denkowski.

Q. Were you in Mr. Railey's office on September 1, 1945? A. Yes, sir.

Q. Will you tell us what took place there?

A. Well, it was quite a time before we went into Mr. Railey's office. There was supposed to be 19 members, but [463] the one was a misspelled name, he was not there.

Mr. Hecht: May we ask how the witness knows one was a misspelled name?

Mr. Royster: Oh, it is common——

Mr. Hecht: (Interposing) Because I was——

Trial Examiner Ruckel (Interposing): Just a moment.

Mr. Royster: It developed, I understand, in this meeting, Mr. Hecht.

There was a name on this letter requesting suspension of a fellow named Richards and it should have been Richmond.

Mr. Hecht: All right.

Trial Examiner Ruckel: Go ahead and tell us what happened then.

The Witness: So we waited, and finally we go to Mr. Railey's office, and we wait some more, for about 15 minutes.

Trial Examiner Ruckel: Don't tell us what didn't happen. Just tell us what happened.

The Witness: And then discussions—everybody

(Testimony of Felix Stanley Denkowski.)

started asking questions, three or four people at a time.

Q. (By Mr. Royster): Well, now, what did Mr. Railey say, if he said anything?

A. Everybody was asking Mr. Railey different questions, and why we were suspended, and Mr. Railey said, "Well, I am neutral." He says, "I am neither—the union put their charges against you," and, he said, "you brought it on [464] yourselves," and "I didn't want this trouble of a union in the first place, so you people brought it on yourselves," so that is all that Railey said.

Q. Now, did Mr. Wood say anything?

A. There was quite a few people asking Mr. Wood at the same time—I believe Mr. Wood said that if we didn't wear the A F of L buttons and didn't talk too much, why, we wouldn't get in this trouble in the first place.

Mr. Hecht: I suggest there is a conflict between your witnesses, Mr. Royster.

Mr. Royster: If so, why, the record will show it.

Trial Examiner Ruckel: Don't comment on the testimony.

Mr. Hecht: I have no questions.

Cross Examination

By Mr. Edises:

Q. Are you a member of the A F of L Chemical Workers Union, Mr. Denkowski?

A. Yes, now.

Q. When did you join the organization?

(Testimony of Felix Stanley Denkowski.)

A. Well, I joined after we had a meeting.

Q. I was not present at the meeting so I don't know when that would be.

A. Well, I don't just exactly remember when because when we had a meeting the meeting was continued, and I joined that after we had a meeting, in that time. I don't know just exactly when.

Q. Do you know whether it was around August 3rd?

A. It is something there, or afterwards.

Mr. Edises: Mr. Royster——

Mr. Royster: Yes.

Mr. Edises: Do you have a copy of the constitution of the A F of L Chemical Workers Union?

Mr. Royster: I haven't.

Mr. Edises: Would it be possible for either of you gentlemen to produce a copy of the constitution of the A F of L Chemical Workers Union?

Mr. Rowell: I think I can find one. I don't know the materiality of it.

Has anyone got an extra one around here?

Trial Examiner Ruckel: Do you want it for this witness?

Mr. Edises: Yes.

Mr. Rowell: Has anyone got one in their pocket, the constitution and by-laws of the International Chemical Workers Union?

Mrs. Norris: No, I haven't.

Mr. Rowell: I am sorry. I don't have a copy here with me. I can furnish one by tomorrow, certainly, but I don't have one here.

(Testimony of Felix Stanley Denkowski.)

Mr. Edises: Well, that will be satisfactory. Tomorrow morning?

Mr. Rowell: Yes. [466]

Trial Examiner Ruckel: Any further questions?

Mr. Edises: I don't think it will be necessary to recall the witness. I think we can probably agree to the matter that I had in mind.

Trial Examiner Ruckel: Any further questions?

Mr. Edises: That is all.

Mr. Royster: That is all.

(Witness excused.)

Mr. Hecht: May we go off the record here for a moment?

Trial Examiner Ruckel: Off the record.

(Remarks outside the record.)

Trial Examiner Ruckel: On the record.

Are there any other witnesses?

Mr. Royster: I have to check through here and see that they are on different points, Mr. Examiner.

Trial Examiner Ruckel: We will recess for five minutes.

(A short recess was taken.)

Trial Examiner Ruckel: On the record.

Mr. Royster: Nick Tate.

NICK TATE

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

(Testimony of Nick Tate.)

Direct Examination

By Mr. Royster:

Q. Will you state your name and address [467] please?

A. Nick Tate, 1451 Blake Street, Berkeley.

Q. When was the last day you worked for respondent, Mr. Tate?

A. I think it was around August — about August 26.

Q. Were you told on August 26 (or whatever the date was) that that was your last day at work?

A. No. This day was on a Thursday, and I told the boss I wanted to take off Friday and Saturday, and he told me I could. And I got a letter from the union that I was suspended.

Q. When did you get the letter?

A. August 31.

Q. And since that time you have not been back to work? A. No, sir.

Q. Now, before you took the days off, did you have a conversation with Ed Bopp and Hack Gleichman?

A. Well, I was back there working and they would come around and wanted to examine books.

Q. Now, can you tell us when this was with respect to the time you last worked?

A. I should say about a week before I got knocked off the job.

Q. All right. Now, what was the conversation?

A. Well, Ed told me that he wanted to check my book, and I went in there and got my book, and

(Testimony of Nick Tate.)

I was just standing there and he said—he looked over to me and told—I don't know [468] if he was talking to Hack, or the whole crowd, he said, "Check in Nick Tate's book, he was one of the A F of L organizers."

Q. Now, who was present when this statement was made by Mr. Bopp?

A. Well, there was quite a few boys around there that works, and Cecil Carter; Cecil Carter and Ed Bopp and Hack Gleichman.

Q. Cecil Carter. Is he the assistant superintendent? A. Supervisor.

Mr. Royster: Supervisor. That is all.

Cross Examination

By Mr. Hecht:

Q. Do you know whether Mr. Carter heard this conversation?

A. He was standing right there.

Q. What do you mean by "standing right there"?

A. Right in the room where we was at.

Q. How large a room is it?

A. I didn't get the question.

Q. How large a room is it?

A. Oh, about this big (indicating), a little space right there, that big (indicating).

Q. Did you say anything—

Trial Examiner Ruckel: (Interposing) That doesn't tell the record anything. How big is it? 20 feet by 30 feet? [469]

(Testimony of Nick Tate.)

The Witness: About something like that.

Q. (By Mr. Hecht): They were speaking in loud voices, I take it?

A. He spoke pretty loud; he could hear it.

Q. You were sure he could hear it?

A. Yes.

Q. Did you say anything to Mr. Carter?

A. I didn't say a word to him.

Q. Did Mr. Carter say anything to you?

A. Not a word.

Q. Did Mr. Carter say anything to Mr. Gleichman? A. Not that I know of.

Q. Did he say anything to Mr. Bopp?

A. Not that I know of.

Q. What was the date of this thing?

A. I would say about a week before I got suspended.

Q. That would be a week prior to September——

A. August, August.

Q. A week prior to September 1? And you left on August 26? Would you say it was August 26 it happened, on a Thursday?

A. No, I couldn't. He didn't check my book then.

Q. You stated it happened a week before you got your letter of suspension. You had your letter of suspension September 1, didn't you?

Mr. Rowell: He testified August 31 he got——

Mr. Hecht (Interposing): All right.

(Testimony of Nick Tate.)

Q. (By Mr. Hecht): This happened a week before you got your letter of suspension, which was August 31, so could it have been August 26?

A. I got suspended August 30. I got the letter——

Q. (Interposing): On the 31st?

A. On the 31st.

Q. All right. Now, you say this conversation took place——

A. (Interposing): The third week of August, around the middle, the third week of August, I would say.

Q. The third week of August. Well, the third week of August was the week of the 20th. Is that when it occurred, some time between the 20th and the 26th?

A. Well, I couldn't tell you the exact date, when he was checking the books around there.

Q. What was it again he said you were? An A. F. of L. organizer?

A. He said I was an A. F. of L. organizer.

Q. Were you? A. Sure I was.

Q. (By Mr. Edises): Mr. Tate, may I be so bold as to ask you: Are you a member of the A. F. of L. at the present time? A. Yes, sir.

Q. When did you join the A. F. of L.?

A. August 30.

Q. August 30? [471] A. Yes, sir.

Q. 1945? A. Yes, sir.

Q. And during the third week of August you

(Testimony of Nick Tate.)

have testified that you were an organizer for the A. F. of L.?

A. Well, I was talking about the A. F. of L.

Q. What were you doing for the A. F. of L.?

A. Well, I don't know if you want to call it organizer or not, but I was just discussing the things, what the CIO had done to the shop stewards.

Q. Were you signing people up in the A. F. of L.? A. No, sir.

Q. When did you get your A. F. of L. book?

A. I didn't get an A. F. of L. book yet. I got receipts. I didn't get it.

Q. When did you start paying dues to the A. F. of L.? A. August 30.

Q. August 30. Just how did you join, what did you do?

A. I signed one of them application blanks that they——

Q. Who gave you the application blank to sign?

A. I can't recall.

Mr. Royster: I wonder if that is material, Mr. Examiner. I will object to it on the ground it is not.

Mr. Edises: Well, there is a charge here that this man was discharged on account of his membership in the A. F. of L. [472] and activities in the A. F. of L. Now, what could possibly be more material to the issues of this case?

Trial Examiner Ruckel: Let's find out when he joined, if possible.

Q. (By Mr. Edises): Now, who gave you this card to sign? A. I can't recall.

(Testimony of Nick Tate.)

Q. Where was it handed to you?

A. How is that?

Q. Where was it handed to you? Where did you sign it? Whereabouts were you?

A. At that meeting we had there August 30.

Q. At what meeting was this?

A. August 30.

Q. Where was the meeting held?

A. At Finnish Brotherhood Hall.

Q. Are you sure you are not referring to July 30? A. Oh, yes, that is it, July 30.

Q. Oh, I see. Now, you joined the A. F. of L., you say, on July 30 at this meeting where the resolution was passed that "Unless the Stewards go back to work, nobody goes to work"; is that right?

A. Yes, sir.

Mr. Rowell: If he can remember.

Mr. Edises: Now, just a minute, Mr. Rowell; just a minute! This is a very positive witness. One of the most [473] positive witnesses we have had so far.

Q. (By Mr. Edises): You are very clear on that recollection, are you?

A. Well, it is about—state that question again.

Mr. Edises: I will ask the reporter to read it.

(The question referred to was read by the reporter.)

Q. (By Mr. Edises): In other words, I just want you to be sure you know what you are talking

(Testimony of Nick Tate.)

about. Do you want to let the answer stand? Is that right?

A. No, I can't—I didn't get the question very good yet.

Q. Now, you want to take your answer back?

Mr. Rowell: Well, obviously it is not clear as to the date he joined the A. F. of L. If you want to find out, if you want to help him out, if you want to refresh his recollection by receipts and so forth, we will furnish them to you.

Mr. Edises: Let's see how good his recollection is.

Q. (By Mr. Edises): Were you ever initiated into the A. F. of L.? A. No, sir.

Mr. Rowell: That is immaterial, Mr. Examiner.

Trial Examiner Ruckel: He may answer.

Q. (By Mr. Edises): What? A. No, sir.

Q. Do you know whether anybody else was ever initiated into the A. F. of L., any of these other people? [474]

A. I don't know a thing about it.

Q. When was the last time you attended an A. F. of L. meeting?

A. I couldn't—let's see. I can't think of the date right now.

Q. Yes. As a matter of fact, you have never attended an A. F. of L. meeting, have you?

A. I never did?

Q. Yes. A. I did.

(Testimony of Nick Tate.)

Q. With the exception of that one on July 30, is that right?

A. Oh, I have attended them.

Q. Now, just wait a minute. You attended one on July 30, is that right? A. Yes.

Q. Did you ever attend another?

A. I went to the meeting—they had the next meeting on July——

Q. July 31? A. The 31st, yes.

Q. Did you ever attend any others?

A. Yes, sir.

Q. When?

A. Well, the meeting times, when they met.

Q. Well, when did they meet? [475]

A. I think it is on the first and third week of each month.

Q. You are not sure of that, are you?

A. Well, I wouldn't say for sure.

Q. And when was the last time you attended such a meeting? Did you attend any, have you attended any during February of this year?

A. I couldn't——

Mr. Royster: I will object to that. What difference does it make whether he attended any meetings in February of this year or not.

Mr. Edises: We have a right to test his recollection.

Trial Examiner Ruckel: He may answer.

Q. (By Mr. Edises): Your answer is you don't recall? A. I don't recall.

(Testimony of Nick Tate.)

Q. Do you recall attending any in January, 1946? A. I don't recall.

Q. Do you recall attending any in December, 1945? That is the same month that Christmas comes in? A. I don't recall.

Q. Do you recall attending any in November, 1945? A. November?

Q. November, 1945? A. I don't recall any.

Q. Do you remember attending any in October, 1945?

A. Well, I went to one of them, but I couldn't tell you [476] the date when I went to the meeting.

Q. Yes. Do you remember attending any in September, 1945?

A. Well, I couldn't tell you the date.

Q. What is the number of the A. F. of L. local that you belong to? A. 233.

Q. And what is the full name of it?

A. International Chemical Workers Union.

Q. Have you got a union card, A. F. of L. Chemical Workers Union card? A. No, sir.

Q. Did you ever get one? A. No, sir.

Q. Have you got an A. F. of L. button?

A. Not in my pocket, no.

Q. Did you ever have one?

A. I have the one I had in the plant.

Q. Yes. Have you got an A. F. of L. union dues book? A. No, sir.

Q. Did you ever get one? A. No, sir.

Q. One was never issued to you?

A. No, sir.

(Testimony of Nick Tate.)

Q. What are the dues in the A. F. of L. union?

Mr. Rowell: That is immaterial, Mr. Examiner, utterly [477] immaterial.

Trial Examiner Ruckel: He may answer.

A. \$2.00 a month.

Q. (By Mr. Edises): \$2 a month?

A. Yes, sir.

Q. When did you last pay dues to the A. F. of L. Union?

A. I think it was in October, I think.

Q. That was the last time you paid dues?

A. October or November.

Q. October or November? A. Yes.

Q. You were paid through October-November. When did you pay those dues?

A. In November.

Q. In November?

A. I wouldn't say for sure.

Q. When was the first time that you paid dues in the A. F. of L.? A. The day I joined.

Q. Where does the A. F. of L. local hold its meetings?

A. In the Finnish Brotherhood Hall.

Q. At the Finnish Brotherhood Hall. Who is the President of the Local?

A. Ed Thompson.

Q. Ed Thompson. Who is the Vice President?

A. I can't think of who it is.

Q. Who is the Secretary?

A. I don't know her name.

(Testimony of Nick Tate.)

Q. Who is the Treasurer?

A. I don't know her name.

Q. Have you ever seen a copy of the constitution of the Local? A. No, sir.

Q. Were you ever a member of an organization called the Employees Welfare Association?

A. Yes, sir. Well, that is what we were supposed to be in the first place, started out with.

Q. When did you join that organization?

A. I can't recall when.

Q. As a matter of fact, it was in April, 1945, wasn't it?

Mr. Rowell: Well, now, counsel, that is an attempt to mislead.

Mr. Edises: This is cross-examination.

Mr. Rowell: It is an attempt to cross up the witness. Are you looking for the truth in this case, or are you trying to cross people up?

Mr. Edises: I am certainly looking for the truth.

Trial Examiner Ruckel: Sustained.

Mr. Edises: I won't comment on how much success I am having. [479]

Mr. Rowell: I don't think you have had any, but you are trying awfully hard.

Mr. Edises: Well, I am glad that is on the record. I think that is all.

Trial Examiner Ruckel: Any further questions?

(Testimony of Nick Tate.)

Redirect Examination

By Mr. Rowell:

Q. Mr. Tate, the A. F. of L. union issues receipts for your dues, is that right?

A. Yes, sir.

Q. It doesn't issue books? A. No books.

Mr. Rowell: No further questions.

Mr. Hecht: Subject to correction by counsel. I am going to make a motion to strike. I believe the witness, Mr. Tate, testified that in the presence of Mr. Carter, Mr. Gleichman said that he was an A. F. of L. organizer and asked to look at his dues book. I don't see the materiality of that testimony or how it is in any way part of this case, and I move to strike.

Trial Examiner Ruckel: Motion denied.

May it be stipulated what Mr. Carter does?

Mr. Carter: He will be here, Mr. Examiner. I would rather have him here and have him explain what his duties are.

Trial Examiner Ruckel: All right, sir.

Any further questions of this witness? [480]

Mr. Royster: None.

Trial Examiner Ruckel: That is all.

(Witness excused.)

Mr. Edises: Could I have a look at that dues book or whatever it is, and examine it?

(Mr. Rowell handed the document to Mr. Edises.)

Mr. Royster: Ophelia Reyes.

OPHELIA REYES

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Royster:

Q. State your name and address, please.

A. Ophelia Reyes, 2229 6th Street, Berkeley.

Q. Did you come to the gate of respondent's plant on August 31? A. Yes, I did.

Q. Will you tell us what happened there?

A. Well, I was going up to the gate. As I turned the corner I could see the gate and there was quite a few—there was a crowd out there, and it seemed as if they were being stopped by some of the men, the union men. And I went up there and this—I don't know who he is, but I would recognize him.

Q. Well, do you see him in the room now? [481]

A. No, he isn't in here.

Q. Have you seen him in this hearing room at any time? A. No.

Q. All right.

A. I went up to him and he asked me, "Have you got your CIO book," and I said "No." He says, "Well, you can't go in," so he says, "I could get in if I went home and brought my book up." So I stood in line a while, and I finally decided I had better do that, so I went home and I came back with my book. And I attempted to show it to him but he wouldn't look. He said I couldn't go in because I was A. F. of L.

(Testimony of Ophelia Reyes.)

Q. Well, did you get into the plant that day?

A. No, I didn't.

Q. Did you see Mr. Altman that day?

A. Yes, I did.

Q. And where did you see him?

A. Well, while we were standing there at the group talking to him, Mr. Altman came up and we asked him why we couldn't go in. He said we couldn't go in because we were A. F. of L.

Mr. Hecht: May I have that repeated, please? May I have that read?

(The answer referred to was read by the reporter.)

Q. (By Mr. Royster): Now, Miss Reyes, when you say you were standing there talking to "him," who do you mean?

A. Well, one of the fellows out there. [482]

Q. You mean one of the ILWU men?

A. Yes, one of the ILWU men.

Q. Are you talking about the man who checked your book? A. The same man.

Q. And you and others were standing in conversation with him? A. Yes, sir.

Q. Now, where did this conversation take place with respect to the gate?

A. Well, it was quite a distance away, almost, I would say, approximately half way up the block.

Q. Half way up the block from the gate?

A. Yes.

Q. And it was outside the company's property?

A. Oh, yes.

(Testimony of Ophelia Reyes.)

Q. Then is it your testimony that Mr. Altman came up and joined this group? A. Yes, sir.

Q. You know Mr. Altman when you see him, do you? A. Yes, I do.

Q. And Mr. Altman asked this ILWU man why you could not go in?

A. Why the group of us couldn't go in.

Q. And then you testified as to what the ILWU man answered? [483] A. Yes.

Mr. Royster: That is all.

Cross-Examination

By Mr. Hecht:

Q. Have you seen this ILWU man in this hearing room? A. No, I haven't.

Q. What does he look like?

A. Well, he is slender and he is dark, and he wears a discharge button.

Q. Does he look like this gentleman over there (indicating Mr. Gleichman)? A. No.

Q. About what time of day was this, Miss Reyes?

A. What time of day? Well, it was in the morning.

Q. August 30? A. August 31.

Q. Was it August 31?

A. I believe it was.

Q. Do you know Mr. Altman?

A. I know him when I see him.

Q. Did you see him here today? A. No.

Q. Will you be surprised if I told you that Mr.

(Testimony of Ophelia Reyes.)

Altman was sitting in this room for about two hours, right over there (indicating)? [484]

A. I would be if you told me that.

Mr. Hecht: That, I think, was the fact, Miss Reyes. That is all.

Mr. Rowell: Well, describe the hearing room, if you want to get the situation in the record.

Redirect Examination

By Mr. Rowell:

Q. Is it true that there is a certain crowd of people in the hearing room, Miss Reyes, you have been sitting somewhat in the center of that crowd?

A. Yes, I have.

Q. What time did you come into the hearing room today?

A. It was a little after two, I believe.

Q. In the afternoon? A. Yes.

Mr. Edises: We will stipulate that Mr. Altman merged perfectly into the background. Perhaps we can stipulate to something like that.

Mr. Rowell: Good; I will stipulate to that, too.

Mr. Edises: Blended with the color of the walls.

Trial Examiner Ruckel: Does somebody else want to question the witness?

Mr. Edises: I have some further questions.

Trial Examiner Ruckel: I am sorry.

Mr. Edises: I was just proposing a stipulation.

(Testimony of Ophelia Reyes.)

Recross Examination

By Mr. Edises:

Q. Miss Reyes, are you a member of the A. F. of L. Chemical Workers Union?

A. Yes, I am.

Q. When did you join? A. The 6th.

Q. Of what? A. Of August.

Q. What year? A. '45.

Q. 1945? A. Yes.

Mr. Edises: That is all.

Trial Examiner Ruckel: That is all.

(Witness excused.)

Mr. Royster: Catano Periera.

CATANO PERIERA

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Royster:

Q. Will you state your name and address, please?

A. Catano Periera.

The Reporter: Will you spell your last name, please?

The Witness: P-a-r-a-e-r-a. [486]

Mr. Rowell: I think he spelled it in Spanish. It is spelled, isn't it, P-e-r-i-e-r-a?

The Witness: Yes.

Mr. Rowell: You were pronouncing the letters in Spanish.

(Testimony of Catano Periera.)

Q. (By Mr. Royster): Did you come to work on July 31? A. Yes.

Q. At what time?

A. I started at three o'clock.

Q. In the morning? A. Afternoon.

Q. In the afternoon. And what did you find?

A. I go in my locker room, choose my clothes, I go start to work. I hear everybody go out to meeting.

Q. So you didn't go to work that day?

A. I work that night.

Q. You work that night?

A. Until eleven o'clock.

Q. Then on August 1 and August 2 you did not work, did you?

A. The 2nd I come to work at two o'clock, everything closed. I go home.

Q. So you go home? A. I go home.

Q. Did you sign a card for the A. F. of L.?

A. Yes. [487]

Q. About when did you sign?

A. About the 6th of August.

Q. The 6th of August? A. Yes.

Q. Do you know Charles Grube? A. Yes.

Q. Did you have a conversation with Charles Grube? A. Yes.

Mr. Hecht: Time, please?

Q. (By Mr. Royster): And when did this conversation take place?

A. In the department.

Mr. Rowell: He asked where?

The Witness: In the plant, in the basement.

Q. (By Mr. Royster): When?

A. Well, I don't know exactly. I think on the 9th of August.

Q. The 9th of August? A. Yes.

Q. What was the conversation?

A. I got the badge of A. F. of L. He come with me. He say, "Periera, what you got on my cap?" I say, "My button." He said, "Take that badge off and put the CIO on, or out the room, or you go home."

Mr. Hecht: Could I have that readback, please?

(The answer referred to was read by the reporter.)

Mr. Royster: That is all.

Mr. Edises: Was that person identified, Mr. Royster?

Mr. Royster: Yes. It was Charles Grube.

Mr. Hecht: August 9?

Mr. Royster: Yes.

Mr. Hecht: I will confess my inability to cross-examine the witness, Mr. Royster, so I have no cross-examination.

Mr. Rowell: Don't you speak Spanish?

Mr. Hecht: Yes, but unless you get an interpreter, it will be pretty hard.

Cross-Examination

By Mr. Edises:

Q. Mr. Periera, when did you join the A. F. of L.? A. The 6th of August.

(Testimony of Catano Periera.)

Q. August 6? A. Yes.

Mr. Edises: Mr. Royster, is this witness one covered by our stipulation?

Mr. Hecht: I think so.

Mr. Royster: No, I think he is not for the reason he did not go to the meetings and he tried to go to work.

Mr. Edises: Well, my question is, is he one covered by our stipulation? Now, it may be that——

Mr. Royster (Interposing): Wait a minute! We excepted certain of them from the stipulation, and he was one.

Mr. Rowell: He was covered by the stipulation, but there were three men excepted from a certain statement in the stipulation.

Mr. Edises: That is what I want to know. Is he one of the three?

Mr. Hecht: Rigo was excepted, so was Mrs. Schneider.

Trial Examiner Ruckel: Off the record.

(Remarks outside the record.)

Trial Examiner Ruckel: On the record.

Mr. Royster: He was one of the three excepted.

Q. (By Mr. Edises): Did you work on July 30, 1945? A. Yes.

Q. Did you go to the meeting in the afternoon at the Finnish Brotherhood Hall?

A. No, I work.

Q. Did you know about the meeting?

A. Yes.

(Testimony of Catano Periera.)

Q. Did they tell you what happened at the meeting, anybody tell you? A. No.

Q. You knew that on the afternoon of July 31 a lot of the workers went away from the plant, walked out? Do you know that? [490]

A. In the time I come to work.

Q. When did you find that out?

A. In the plant.

Q. And you learned that they were out on a strike, huh? A. Yes.

Q. And what did you do after you learned that? No, just a minute.

Did you learn why they were out on strike?

A. What do you mean?

Q. Did you learn that they were out on strike because the company wouldn't take the Stewards back? A. Yes.

Q. You knew that? A. Yes.

Q. What did you think about that?

Mr. Rowell: Well, now, that is immaterial, Mr. Examiner.

Trial Examiner Ruckel: He may answer.

Q. (By Mr. Edises): Did you stay out after that? Did you stay out with the other people?

A. Yes, sir.

Q. When did you go back?

A. On a Friday.

Q. What day was that? A. The 4th. [491]

Q. And you stayed out with the rest of them?

A. Yes, sir.

(Testimony of Catano Periera.)

Mr. Royster: The 3rd is a Friday.

Mr. Edises: Well, off the record, please.

Trial Examiner Ruckel: Off the record.

(Remarks outside the record.)

Trial Examiner Ruckel: On the record.

Mr. Edises: To clear up a misunderstanding developed previously, it is stipulated that Mr. Periera was one of the persons who participated in the strike, or rather, the work stoppage which occurred from July 31 to August 3, 1945.

Mr. Royster: Agreed for the Board.

Mr. Rowell: So stipulated.

Mr. Hecht: And also may it be stipulated that he is also one of the men who pleaded guilty at the so-called trial of December 17, 1945?

Mr. Rowell: I think we already have.

Mr. Royster: We have already stipulated it as a fact he did plead guilty.

Mr. Hecht: Yes.

Mr. Edises: Yes, I think that is true. I have no other questions.

Mr. Royster: No questions.

Trial Examiner Ruckel: That is all.

Mr. Royster: Thank you, Mr. Periera.

(Witness excused.) [492]

Mr. Royster: Ina Mae Paige.

INA MAE PAIGE

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

(Testimony of Ina Mae Paige.)

Direct Examination

By Mr. Royster:

Q. Will you state your name and address, please?

A. Ina Mae Paige, 1460 66th Street, Emeryville, California.

Q. Did you sign a designation card for the A. F. of L.?

A. Yes, I did.

Q. Do you know what date you signed it?

A. I think it was around August 4.

Q. 1945?

A. Yes.

Q. Did you come to the gate of respondent's plant on August 31?

A. Yes, I did.

Q. And did you enter?

A. No, I did not.

Q. Will you tell us what happened?

A. Well, just as we were driving into the gate, I was stopped by a number of members. I remember this fellow here (indicating). I don't know his name. [493]

Mr. Royster: Let the record show that the witness has indicated Mr. Gleichman.

The Witness: Yes. And he stopped me and he asked me for my book. Well, I didn't have the book, my CIO book, black book. So he says I couldn't go in. And I asked him if I returned home and got the book if I could go to work, and he said, "Yes, so I did so," and when I came back he, well, he ignored the fact that I had my book and wouldn't let me go in. Then I asked, "Why?" I asked him if we looked like a bunch of criminals, and in the meantime he said he asked one of the

(Testimony of Ina Mae Paige.)

higher officials why, and he said that this one stated—now, let's see how was it again?

Mr. Hecht: May I have that clarified? Who asked what high official?

Trial Examiner Ruckel: Mr. Gleichman said he had asked some higher official?

The Witness: Yes. That he had asked one of the higher officials.

Trial Examiner Ruckel: In what? The Union or the company, did he say?

The Witness: The company. And he said that he told them that was because we had the guts to say what we were for and the rest didn't. I asked him why the rest were in and we was not, that is the way it was, why we were stopped at the gate.

Trial Examiner Ruckel: I can't get it.

Mr. Edises: I would be willing to consent that Mr. Royster can lead this witness in the interest of clearing up this confusion.

Trial Examiner Ruckel: Let's have the answer read.

(The answer referred to was read by the reporter.)

Mr. Royster: Well, let me question the witness here.

Mr. Edises: Go ahead.

Q. (By Mr. Royster): Now, Miss Paige, when you returned with your dues book you attempted to submit it to Mr. Gleichman, did you?

A. Yes.

(Testimony of Ina Mae Paige.)

Q. And I believe you testified that he did not appear interested in looking at it then?

A. No.

Mr. Rowell: You mean by that he did not appear interested?

The Witness: No, he did not seem interested when I returned with my book.

Q. (By Mr. Royster): Now, were you able to get in the plant? A. No.

Q. On your second attempt? A. I was not.

Q. And who stopped you? [495]

A. Well, there were any number of members out there.

Q. Yes.

A. There was this tall fellow. I don't know—I think it is the same one the other girl was referring to, and this fellow (indicating Mr. Gleichman) is the only one I really recognized.

Q. Now, when you came back with your book you took it to Mr. Gleichman, and still you were unable to get in the plant? A. Yes.

Q. Did Mr. Gleichman tell you why you couldn't go in the plant?

A. No, I don't believe he did.

Q. Did you ask him why you were kept out of the plant?

A. Yes, that is when this answer came in about——

Q. (Interposing): All right. Now, what did he say to you? A. Well, I asked——

(Testimony of Ina Mae Paige.)

Mr. Edises (Interposing): Just a moment. May I suggest that you ask the witness to, instead of using the proper noun "he" use proper names of the parties?

Mr. Royster: Yes.

Q. (By Mr. Royster): All right. What did Mr. Gleichman say then?

A. I asked—you mean when I asked him why we were not permitted to go in? [496]

Q. Yes.

A. Well, he says, "One of your higher officials"—that was the company officials—"had just asked him——"

Mr. Hecht: Now, may I interrupt? Did he say "one of your higher officials," or did he say "one of the company officials?"

The Witness: One of the higher officials, he said. Those were the words.

Mr. Hecht: All right.

Trial Examiner Ruckel: Said——

The Witness: He said he told him it was because we had the guts to say what we were for, that is when that came in.

Trial Examiner Ruckel: Mr. Gleichman said one of the higher officials had told him, Mr. Gleichman?

The Witness: Yes.

Trial Examiner Ruckel: What?

The Witness: That we had the guts to say what we were for and the rest didn't.

(Testimony of Ina Mae Paige.)

Q. (By Mr. Royster): Did you see Mr. Altman this day? A. Yes, I did.

Q. And did you have a conversation with him?

A. Well, I also asked Mr. Altman why we were out.

Mr. Hecht: Where, please?

The Witness: Outside the gate.

Q. (By Mr. Royster): No, where did you have the conversation [497] with Mr. Altman?

A. Oh, Mr. Altman was inside the gate and I was outside.

Q. And did you talk to him through the gate?

A. Yes, I did.

Q. And what did you ask him?

A. I asked him why we was not in and the rest of the girls—there were two girls that were out at the time, they were allowed to enter and we were not, and I asked him why.

Q. Yes.

A. So he said he would go see, but he never returned.

Q. I see. Were you wearing an A. F. of L. button when you came to the gate?

A. Not when I entered the gate, but before I left there I did.

Mr. Royster: No further questions.

Mr. Hecht: Mr. Examiner, I move the testimony of this witness be stricken as having no bearing, materiality or otherwise in the issues in this case.

Trial Examiner Ruckel: Motion denied.

Mr. Hecht: I have no questions.

(Testimony of Ina Mae Paige.)

Cross-Examination

By Mr. Edises:

Q. Miss Paige, had you been particularly active in the A. F. of L., more so than other people in the plant? A. Oh, I don't think so. [498]

Q. You didn't do any more than anybody else, is that right? A. No, I did not.

Q. You wore your A. F. of L. button?

A. Part time; in fact I don't think I was as active——

Q. (Interposing): And a lot of people, a lot of other people wore their A. F. of L. button, too, didn't they? A. They sure did.

Q. And not all of those were let go?

A. No.

Q. Isn't that right? A. Yes.

Q. Do you recall any particular thing that you did that would make you outstanding as an A. F. of L. member, more outstanding or more prominent than anybody else?

A. I do not. I more or less felt that they just culled me out because they could keep me out.

Q. Now, just a moment. I didn't ask you for your opinion as to what you more or less felt.

I ask that go out.

Trial Examiner Ruckel: It may be stricken.

Q. (By Mr. Edises): Can you think of a single thing that distinguishes you in any way from any of the other persons in the plant who joined

(Testimony of Ina Mae Paige.)

the A. F. of L. in regard to your union activities?

A. You mean that they should keep me out?

Q. Yes. A. I do not.

Mr. Edises: That is all.

Mr. Royster: No further questions.

Mr. Rowell: No questions.

Trial Examiner Ruckel: That is all.

(Witness excused.)

Mr. Royster: Alden Lee.

ALDEN LEE

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Royster:

Q. Will you state your name and address, please?

A. Alden Lee, 1207 Alston Way, Berkeley.

Q. Did you approach the gate of respondent's plant on August 31, Mr. Lee? A. I did.

Q. Well, tell us what happened there?

A. Well, I was stopped by a Mr. Duarte and another man—I don't know what his name was. The man said, "I want to see your book." I said, "My book?" He said, "Yes." So I handed Mr. Duarte the book, and he checked it over, and I went in through the gate. [500]

Q. Now, was there anyone at the gate when you went in?

A. Mr. Carter was there. Also Mr. Altman was standing in a little ways.

(Testimony of Alden Lee.)

Q. Did you have any conversation with Mr. Carter?

A. Yes. I asked Mr. Carter what the hell was going on around here.

Q. And did Mr. Carter reply?

A. He just laughed.

Q. You went on into work then, did you?

A. I did.

Q. And did you later have a conversation with Mr. Gleichman?

A. They came around about two hours later.

Q. Who is "they?"

A. They wanted to check my book again.

Q. I mean who is "they?" A. Pardon?

Q. You say "they came around."

A. Mr. Squires and Mr. Gleichman.

Q. Mr. Squires and Mr. Gleichman?

A. That is right.

Q. All right. And what happened when they came around?

A. They wanted to check my book again.

Q. And what did you say?

A. I told them, "Why, you already checked it once this [501] morning."

Q. And did they make any reply to that?

A. Mr. Squires did. He said, "Well, you are still wearing that button."

Q. And were you wearing a button?

A. Yes, sir.

Q. What kind of a button? A. A. F. of L.

(Testimony of Alden Lee.)

Q. And did Mr. Gleichman have anything to say?

A. He asked me if I knew what I was doing.

Q. Was there any further conversation?

A. Well, I said, "Yes," and he asked Mr. Squires for my name.

Q. Yes. And was that all that occurred?

A. That was all.

Mr. Royster: That is all.

Mr. Hecht: I move to strike on the same grounds, Mr. Examiner.

Trial Examiner Ruckel: Motion denied.

Mr. Hecht: No further examination.

Cross-Examination

By Mr. Edises:

Q. Mr. Lee, are you a member of the A. F. of L. Chemical Workers Union? A. I am.

Q. When did you join? [502]

A. August 3.

Q. Are you an officer of that organization?

A. I am not.

Q. Are you a member of any committees in that organization? A. No, sir.

Q. Have you ever been? A. No.

Q. Have you ever been outstanding for activities in that organization?

A. I don't think so, no.

Q. Did you play a more prominent part than

(Testimony of Alden Lee.)

other members of that organization in pushing the A. F. of L. Union?

A. Well, I used to hand out leaflets.

Q. Well, so did a great many other employees, didn't they? A. About all.

Q. You weren't any more prominent in that regard than the others, were you?

A. No, I don't think so.

Q. Among others were persons who never were let go, isn't that right?

A. I didn't get that question.

Q. I say a lot of persons who distributed A. F. of L. literature never were let go, isn't that right?

A. I don't know. I can't answer that.

Mr. Rowell: Maybe they didn't get caught. [503]

Q. (By Mr. Edises): Did you engage in any activities of any kind which were different or more prominent than that of the other employees in the plant? A. No.

Q. Can you think of any one thing that is different or outstanding about your union activities at the plant? A. No.

Q. As an A. F. of L. member?

A. Just handing out leaflets.

Q. Isn't it a fact, Mr. Lee, that there have been a lot of persons who handed out A. F. of L. leaflets who never were let go? A. I don't know.

Mr. Rowell: Objected to as already asked and answered.

Trial Examiner Ruckel: If he knows, he may answer.

(Testimony of Alden Lee.)

Q. (By Mr. Edises): Do you know?

A. No.

Q. You don't know? A. No.

Q. Do you know of any special reason connected with your union activities why you should have been singled out for release?

A. Well, I suppose there is only one reason, the passing out of leaflets, wearing a button.

Q. But it is a fact that there were around 200

A. F. of L. [504] people in that plant, weren't there?

A. Yes.

Q. And practically all of them wore their buttons, didn't they? A. No, not all of them.

Q. Well, the great majority of them wore their buttons? A. I wouldn't say that.

Q. How many of them didn't wear their buttons?

A. That is pretty hard to decide. I never did count them.

Q. Would you say that half of them wore their buttons?

A. No, I wouldn't say "half"; about 75, perhaps.

Q. 75 wore their buttons? A. Perhaps, yes.

Q. Do you know whether everybody who wore a button was discharged? A. No, I don't.

Q. You don't know that? A. No.

Q. The fact is, there were a lot who wore their buttons who were not, isn't that true?

A. I don't know.

(Testimony of Alden Lee.)

Q. Was Mr. Carter your superior?

A. Mr. Hutchings was my foreman.

Q. Was Mr. Carter one of your superiors at the plant? A. He is a supervisor, yes. [505]

Q. He is one of your Supervisors then?

A. He is a Supervisor.

Q. Is that the way you were in the habit of addressing your superiors, "What in the hell is going on around here?"

Mr. Rowell: I object.

Mr. Hecht: That was the answer he gave.

Mr. Rowell: Certainly it was, but is it material whether he was in the habit of using that language or not?

Mr. Hecht: That may be the reason Mr. Carter just laughed.

Trial Examiner Ruckel: Let's not have any further comments. Objection sustained.

Mr. Rowell: Maybe I would have said the same thing.

Trial Examiner Ruckel: That may be stricken.

Mr. Edises: That is all.

Mr. Royster: No further questions.

Trial Examiner Ruckel: That is all.

(Witness excused.)

Mr. Royster: And no further witnesses.

I have four more witnesses I want to put on in the morning, but they will take a very, very short time.

Mr. Edises: May we have a stipulation as to the

(Testimony of Alden Lee.)

dates that the persons who have not testified joined the A. F. of L.?

Mr. Royster: Yes, I am willing to stipulate to that.

Mr. Rowell: Suppose we just stipulate a certain [506] period.

Trial Examiner Ruckel: Off the record.

(Remarks off the record.)

Trial Examiner Ruckel: Of the record.

Mr. Royster: Mr. Luchsinger.

You have already been sworn.

DAVID LUCHSINGER

recalled as a witness by and on behalf of the National Labor Relations Board, having been previously sworn, was examined and testified further as follows:

Direct Examination

By Mr. Royster:

Q. Mr. Luchsinger, were you issued a badge during the course of your employment by the respondent? A. I was.

Q. Did you wear that badge? A. No, sir.

Mr. Royster: That is all.

Cross-Examination

By Mr. Hecht:

Q. Did you deny yesterday, Mr. Luchsinger, that you had been issued that badge?

Mr. Rowell: That is objected to. The record speaks for itself.

(Testimony of David Luchsinger.)

Trial Examiner Ruckel: Is there a doubt as to what the record will show? I don't know myself.

Mr. Hecht: My recollection is—— [507]

Perhaps it isn't the clearest in the world—that the witness denied he had a badge, ever had one.

The Witness: If that was the statement, that was a misstatement. I said I was issued a badge but never wore the badge in the plant.

Q. (By Mr. Hecht): Did you say originally you were issued the badge?

A. I said I was issued a badge but I have never worn the badge because I never walked through the gate. I always had a car, I drove in a machine, and I had a sticker on my car to identify, that was issued by the company.

Q. Do you now state that you did not yesterday testify that you had never been issued a badge?

Mr. Rowell: It has already been asked and answered. He stated if he did say it, it was wrong.

Mr. Hecht: He has not answered it.

Trial Examiner Ruckel: Well, the record will show what he said.

That is all.

(Witness excused.)

Trial Examiner Ruckel: Off the record.

(Remarks outside the record.)

Trial Examiner Ruckel: Recess until 9:30 tomorrow morning.

(Whereupon, at 5:10 P.M. an adjournment was taken to Friday, February 8, 1946, at 9:30 A.M.) [508]

[Title of Board and Cause.]

Friday, February 8, 1946.

Pursuant to adjournment, the above-entitled matter came on for hearing at 9:30 a.m. [509]

PROCEEDINGS

Trial Examiner Ruckel: The hearing will be in order, please.

Mr. Rowell: Mr. Examiner, in response to a request by Mr. Edises I have here the Constitution and By-Laws of the International Chemical Workers Union, and I will offer them in evidence, if I may have a stipulation, as A F of L's Exhibit next in order.

Trial Examiner Ruckel: It has been offered?

Mr. Rowell: It has been offered. Mr. Edises is examining it.

Mr. Edises: Are you going to offer that?

Mr. Rowell: Yes, I have offered it.

Mr. Edises: Well, I will stipulate that this appears to be the Constitution and By-Laws of the International Chemical Workers Union.

Trial Examiner Ruckel: You stipulate that it is?

Mr. Edises: I will stipulate that it is.

Mr. Rowell: Good. Thank you.

Trial Examiner Ruckel: It may be received.

Mr. Royster: No objection.

(Thereupon the document above referred to was marked Petitioner's Exhibit 2 and received in evidence.)

Mr. Edises: And I would like to ask Mr. Rowell for a copy of the Constitution and By-Laws of the local. [512]

Mr. Rowell: If they exist I will——

Mr. Edises: (Interposing) Well, can you find out whether they exist?

Mr. Rowell: I will during the next intermission.

Trial Examiner Ruckel: Find out off the record.

Mr. Edises: Will it be stipulated that what I have in my hand is the Constitution and By-Laws and Rules of Order of Warehouse Union, Local No. 6, International Longshoremen & Warehousemen's Union, which were in effect at the time of the events complained of?

Mr. Rowell: (Examining document) Yes, so stipulated.

Mr. Edises: I offer that.

Trial Examiner Ruckel: That will be marked the Intervener's next succeeding number.

It may be received.

Mr. Rowell: No objection.

(Thereupon, the document above referred to was marked Intervener's Exhibit No. 5 and received in evidence.)

Trial Examiner Ruckel: Call your next witness.

Mr. Royster: Call William Howard.

WILLIAM C. HOWARD

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows: [513]

Direct Examination

By Mr. Royster:

Q. State your name and address, please.

A. William C. Howard, 141 Ronada Avenue, Piedmont.

Q. Did you sign a designation card for the A F of L, Mr. Howard? A. Yes, sir.

Q. About when did you sign it?

A. I would say about August 3rd, somewhere in there.

Q. Of what year? A. 1944—'45.

Q. Do you know Mr. Hack Gleichman?

A. Fairly well. I have seen him around there.

Q. All right. Did you see Mr. Gleichman in the respondent's plant in the machine shop?

A. Yes, sir, I did.

Q. Now, can you tell us about when you saw him there?

A. Well, it was along in the latter part of August.

Q. Of last year? A. Yes, sir.

Q. Was he having a conversation with anyone?

A. With the machine shop foreman.

Q. And what is the name of the machine shop foreman? A. Victor Petersen.

Q. And could you hear this conversation?

A. Yes, I did. [514]

(Testimony of William C. Howard.)

Q. Was there anyone else present who could hear it other than those you have named?

A. No. The machine shop foreman and I were standing there together when he came up.

Q. What did Mr. Gleichman say?

A. He gave him a whole handful of buttons and told him to put them on the machinists.

Q. What kind of buttons?

A. CIO buttons.

Q. What did Mr. Petersen say, if anything?

A. He just took them and walked away, didn't say anything.

Q. Was there anything said about the A F of L buttons?

A. Well, he wanted them to take off A F of L buttons and put on the CIO buttons, is what I gathered from it.

Mr. Edises: Now, I ask that that go out as the conclusion and opinion of the witness.

Trial Examiner Ruckel: What did he say? Did he say anything about taking off the A F of L buttons?

The Witness: Yes.

Q. (By Mr. Royster): Who did?

A. Gleichman.

Q. To whom did he say this?

A. To Petersen.

Q. And what did he say?

A. Well, Petersen just took the buttons and walked away, didn't say anything. [515]

Q. I mean, what did Mr. Gleichman say?

(Testimony of William C. Howard.)

A. That was all there was to it. He just told him to take—if there was any A F of L buttons to take them off and have CIO buttons put on all of his men.

Q. Did you attend A F of L meetings during the month of August? A. Yes, sir.

Q. Did you attend them directly?

A. Every one of them.

Q. Do you know Charles Grube?

A. I did.

Q. Did you see him near any of these meetings?

A. Practically every one, if not every one; he was out in front with the business agents of the CIO.

Q. Out in front of where?

A. In front of where we met with the A F of L meetings.

Q. Where was he with respect to the entrance to this hall?

A. Well, usually parked across the street right opposite the door, and to one side, right alongside of the door.

Q. Were you in Mr. Railey's office——

Trial Examiner Ruckel: Is he a member of the CIO, do you know?

The Witness: He is a member of the CIO, yes, sir. He is also a foreman in the plant.

Q. (By Mr. Royster): Were you in Mr. Railey's office on [516] September 1?

A. I was. I was the first one in there.

(Testimony of William C. Howard.)

Q. Did you have a conversation with Mr. Railey?

A. I did.

Q. Will you tell us what that conversation was?

A. I asked him first what we were brought in there for. He told me to wait a minute, there were some more coming in. After they came in, I believe it was Mr. Altman read this letter from the CIO. After he read it I asked Mr. Railey, I said, "Do you mean to tell me you are going to take orders from the CIO to lay old employees off? Practically all of them have been there years. I know I have."

And he says, "Well, I didn't want you fellows to join a union in the first place. You joined it. Now you got yourself in trouble, get out of it."

Q. Was that a direct conversation between you and Mr. Railey?

A. Directly with me, direct with me. I did the talking and he did the answering.

Mr. Royster: That is all.

Mr. Hecht: Just a moment, please.

As to the testimony relating to the conversation between Hack Gleichman and Foreman Victor Petersen, I move to strike.

Trial Examiner Ruckel: It may stand.

Mr. Hecht: As to the incident of Charles Grube being [517] around there for A F of L meetings I move to strike.

Trial Examiner Ruckel: Motion denied.

Mr. Rowell: Mr. Examiner, I desire to ask one question of this witness similar to one to which ob-

(Testimony of William C. Howard.)

jection was sustained yesterday. Before asking it I want to explain the reason.

This witness, as well as others, has testified to a statement by Mr. Railey, that he did not want them to join a union in the first place, and now that they are in that trouble they could get themselves out of it. Mr. Railey denied having made any such statement, and the reason he gave for the fact that he wouldn't have been likely to do it was that he never fought them, he never fought the union. I wish to ask a question of this witness on that subject.

Mr. Hecht: If you are going into that——

Trial Examiner Ruckel: (Interposing) You will have to file another charge and have an unfair labor practice case.

Mr. Rowell: After all, there has been a conflict in the testimony. It is a matter of believing these witnesses or believing Mr. Railey's statement.

Trial Examiner Ruckel: Whatever this witness said would be his own conclusions.

Mr. Rowell: No. I am going to ask him whether he was present on occasions which strongly indicate—not an opinion. I want to have him testify as to facts. [518]

Mr. Hecht: Mr. Examiner, if that question is permitted, of course I will ask for a recess after Saturday to recall Mr. Railey to rebut any testimony.

Trial Examiner Ruckel: We are not going to do anything that isn't covered by the pleading.

(Testimony of William C. Howard.)

Mr. Edises: Mr. Examiner, I want to say as far as the Intervener ILWU is concerned, we recognize that, of course, the testimony would be irrelevant because it is an impeachment, it is an attempted impeachment on an immaterial point. However, as far as the attempt to show that the company fought the ILWU over a period of years, we would hardly be in a position to deny that there was considerable conflict between the company and the union.

Mr. Hecht: Now, I am not going to subscribe to that statement, Mr. Edises, because in the first place I know nothing about it, and Mr. Railey's information to me is to the contrary.

Mr. Edises: Well, obviously colloquy between us——

Trial Examiner Ruckel: When the witness says "never fought the union" that is his opinion. He is not testifying that he never made this or that particular statement which might be controverted by evidence to the contrary. How are you going to controvert his opinion, that his company never fought the union? Maybe your opinion is that it did, but it still is a question of opinion. [519]

Mr. Rowell: If the facts are so obvious, Mr. Examiner, and I think they are somewhat obvious and very strong——

Trial Examiner Ruckel: Well, I am not going to permit the question. You can ask it if you want to and I will sustain the objection.

(Testimony of William C. Howard.)

Mr. Rowell: Well, I won't ask it then. No further questions.

Mr. Hecht: I have no questions of the witness. Oh, yes, one question.

Cross Examination

By Mr. Hecht:

Q. Mr. Howard, did you on December 17, 1945, attend something that has been described as a trial or hearing on charges brought against you by the ILWU? A. What date?

Q. December 17, 1945?

Mr. Rowell: We will stipulate that that was the date.

A. I attended a trial that I was called to by the advice of the attorneys I appeared before but did not stand trial.

Q. (By Mr. Hecht): You didn't stand trial?

A. No, sir.

Q. Have you since that date received a notice that you have been expelled from the ILWU?

A. No, I haven't, but I have had information that I was expelled.

Mr. Hecht: That is all. [520]

Trial Examiner Ruckel: Any further questions?

Mr. Edises: Yes.

Q. (By Mr. Edises): How long were you a member of the ILWU, Mr. Howard?

A. All the time it has been in the plant. I was there before any union came in the plant.

(Testimony of William C. Howard.)

Q. How long, then, have you been a member of the ILWU or its predecessor?

A. Well, I don't know. I went in when the plant was taken. I don't know the date.

Q. Were you there when Charlie Grube was an ordinary employee, not a foreman?

A. I was on the committee with him, he and I were on the same committee there together. He was the head shop steward and I was a steward.

Q. Head shop steward for the ILWU?

A. Yes, sir.

Q. Charlie was one of the founders of the union at Peet's, wasn't he?

A. He and I were, and the man I mentioned, Victor Petersen.

Q. And isn't it a fact that Charlie Grube and yourself and, well, several other employees, were actually the leading spirits, the leading spirits in the ILWU? A. No. [521]

Q. At the plant?

A. Not of the ILWU. We started it around there before we went into the ILWU.

Q. I understand that. What I mean is that as far as union organization at the plant is concerned, both in the ILWU and the organization, which was the parent, so to speak, of the ILWU——

A. (Interposing) Yes.

Mr. Rowell: Well, let's don't be mysterious about that organization. It was the ILA, A F of L, wasn't it?

Mr. Edises: All right, ILA.

(Testimony of William C. Howard.)

Q. (By Mr. Edises): You and Charlie Grube and a number of others were the pioneers in organization at the plant, isn't that true?

A. That is right.

Q. And isn't it a fact that until he was made foreman of this department Charlie Grube was always in some office or on some committee?

A. Yes, that is true.

Q. In the union? A. That is true.

Q. Do you know what Mr. Petersen did with these buttons that Mr. Gleichman handed him?

A. I don't remember.

Q. Well, now, will you explain that, please? Did you [522] once know and have now forgotten?

A. Yes.

Q. You once knew and you have now forgotten?

A. I have forgotten it, yes.

Q. All right. What did you know before you forgot it?

Mr. Rowell: Well, now——

Trial Examiner Ruckel: (Interposing) Objection sustained.

Mr. Edises: Will you read the last statement of the witness?

Mr. Hecht: I think, Mr. Examiner, that it is obvious from the demeanor of the witness that he is refusing to answer. I think he should be instructed to answer.

Mr. Rowell: His demeanor doesn't impress me that way at all. He has been a very cooperative witness.

(Testimony of William C. Howard.)

Mr. Edises: Mr. Examiner, I want to ask that colloquy of this kind be dispensed with, especially when counsel is in the act of examining the witness.

Mr. Rowell: Certainly. When Mr. Hecht makes a comment as to the demeanor of the witness I am entitled to make a comment also.

Mr. Edises: Mr. Examiner, haven't I the right to continue with my examination?

Trial Examiner Ruckel: Yes. The objection to the particular question was sustained.

Mr. Edises: I had a request to the reporter. I would like to have the last statement of the witness read in answer to my question, the question and answer.

(The question and answer referred to were read by the reporter.)

Mr. Edises: That is the answer I wanted.

Now, Mr. Examiner, I submit it is flying in the face of common sense to overlook the fact that this witness is being deliberately condemnations and obstreperous.

Mr. Rowell: Well, now——

Mr. Edises: Now, just a minute, Mr. Rowell, I am still making my point.

Trial Examiner Ruckel: Let counsel finish his statement.

Mr. Edises: And I am going to ask the Trial Examiner, in view of the witness' statement and his demeanor, that he be instructed to answer my question.

(Testimony of William C. Howard.)

Trial Examiner Ruckel: He cannot answer your question. The last is impossible to answer. If he has forgotten, then he cannot possibly say what his recollection was before.

Mr. Edises: Mr. Examiner, may I point out when I asked him a question as to whether he knew, really knew what had taken place, his answer was "That is my business."

Now, I submit after all this is a——

Trial Examiner Ruckel (Interposing): That was the answer, but it was answered to a question that was not susceptible of being answered. [524]

Mr. Rowell: Ask your question again, Mr. Edises. I am sure he will answer it.

Mr. Edises: All right.

Trial Examiner Ruckel: The question that was asked him, the previous question before that, was what did Mr. Petersen do with the buttons. He said he had forgotten.

Do you mean by that that you have forgotten, or you don't know?

The Witness: I didn't pay any attention. I just walked out. It was none of my affair anyway. He was not talking to me.

Q. (By Mr. Edises): Well, then, your answer is that you don't know?

A. Yes, that is the best answer, sure.

Q. You don't know, in other words, whether he walked into the next room and dumped all those buttons into an ashean, do you?

A. No, I don't.

(Testimony of William C. Howard.)

Q. Uh huh. And you are not claiming that you saw him passing any of them out, are you?

A. No, I am not. I told you I walked out. I didn't stay to see the proceedings.

Mr. Edises: Yes. Is this witness, Mr. Royster, covered by our stipulation? [525]

Mr. Royster: He is.

Mr. Edises: Yes. That is all.

Mr. Rowell: No questions.

Mr. Royster: No questions.

Trial Examiner Ruckel: That is all.

(Witness excused.)

Mr. Hecht: I renew my motions to strike, Mr. Examiner.

Trial Examiner Ruckel: Beg your pardon?

Mr. Hecht: I renew my motions to strike.

Trial Examiner Ruckel: Motion denied.

Mr. Royster: Mr. Richmond.

FRANKLIN L. RICHMOND

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Royster:

Q. Will you state your name and address, Mr. Richmond?

(Testimony of Franklin L. Richmond.)

A. Franklin L. Richmond, 1121 Blake Street, Berkeley, California.

Q. Did you sign a designation card for the A F of L? A. I did.

Q. And about when did you sign it?

A. On or about August 3, I believe.

Q. 1945? [526] A. Yes, sir.

Mr. Hecht: May I have that answer, please?

Mr. Royster: "On or about August 3, I believe."

Q. (By Mr. Royster): Did you have a conversation with Mr. Gleichman in the Toilet Articles Department? A. Yes, I did.

Q. When did this conversation take place?

A. I don't remember the exact date.

Q. As nearly as you can place it?

A. It was just about four days, I think, before I was fired.

Q. And when were you fired, as you put it?

A. On or about the 5th of September.

Q. Now, who was present when this conversation took place?

A. Well, at the first part of it there was only he and I.

Q. And did someone else later join you?

A. No. I walked over to my boss, Mr. Carlson.

Q. All right. Well, now, let's have the conversation then that took place between Mr. Gleichman and you with no one else present?

Mr. Hecht: I am sorry to interrupt, Mr. Royster. Who did he say his boss was?

The Witness: Carlson.

(Testimony of Franklin L. Richmond.)

Q. (By Mr. Royster): What was the conversation, Mr. Richmond? [527]

A. I was walking across the floor, and I had my A F of L button on. He spied this button, he walks over and he says, "What in the hell are you doing in here?" and I says, "I am working here," and he says, "How long have you been working?" I says, "About 10 years." He says, "Did we see your book?" and I says, "You did." And he says, "Let me see it."

And that is when I walked over to my boss.

Mr. Edises: Excuse me. Was that conversation supposed to have been with Mr. Gleichman?

Mr. Royster: Yes.

Q. (By Mr. Royster): Well, when you walked over to your boss what did you do?

A. I says, "Mr. Carlson, has this goon got any right to come in here and——"

Mr. Edises (Interposing): What was that?

A. I asked Mr. Carlson if this goon had any right to come in here and demand to see my book merely because I have got a button on. He says, "Well, he can ask to see your book, is all." And I says, "All right, I will go and get it."

Mr. Hecht: You said what?

The Witness: I said, "I will go and get it."

So I went and got the book, and I gave it to him, and he just opened up the back of it and got the number. And he says, "1961, huh?" That is all. And I says, "Now I suppose I will get one of your letters?" He says, "You will!" [528]

(Testimony of Franklin L. Richmond.)

Q. (By Mr. Royster): And did you?

A. I did.

Mr. Hecht: Was Carlson supposed to have been present during this conversation? I can't hear the witness.

Mr. Royster: Well, I think not, but I will get it straight here.

Q. (By Mr. Royster): Was Mr. Carlson present when Mr. Gleichman looked at your book and got the number?

A. No, he was not. The first part of the conversation was approximately 25 feet from where Mr. Carlson was standing, and when I walked over, Gleichman walked over with me, and Mr. Carlson told me he could ask to see my book, so I walked back over to the dressing room, and Mr. Gleichman followed me over. Mr. Carlson stayed over by the packing bench.

Q. Now, were you called to the office of any one of the company's executives a few days after that?

A. Yes, I was. I was called into Mr. Carlson's office.

Q. And what took place there?

A. Well, Mr. Altman, then—before that, a few minutes before, had came along, and he spoke to me and I spoke and I says, "I hear they got your oiler." And he says, "You didn't happen to hear anything about Mr. Richmond, did you?" And I says, "Well, I have been hearing something about it for several days." And he says, "Well, I got a letter this morning that you are no longer in good stand-

(Testimony of Franklin L. Richmond.)

ing and I will have to [529] let you go." And I says, "Well, I have got an order here I am working on that Mr. Carlson asked me to fix for him." I says, "I suppose you have the final say, but Mr. Carlson, being my immediate boss, you go and tell him and let him come and tell me, and that will give me a chance to finish this order."

So he went and told Mr. Carlson, and then Mr. Carlson called me in the office.

Q. Well, did you have a conversation then with Mr. Carlson, or Mr. Altman?

A. Mr. Altman.

Q. In Mr. Carlson's office? A. Yes.

Q. And will you tell us—was Mr. Carlson there also? A. Yes, sir.

Q. Was anyone else there?

A. No. Well, Louie Mueller, the second foreman, did walk in for a few minutes in the middle of the proceedings.

Q. And this took place about the 5th of September?

A. On or about that. I am not exactly sure. I think it was.

Q. And what was the conversation now, who said it, and what did they say?

A. Well, Mr. Altman said that he has been notified that I am no longer in good standing with the Warehousemen's, and [530] having a contract with them he couldn't keep me on the job. And I says, "Well, I am not in bad standing with them." I says,

(Testimony of Franklin L. Richmond.)

"I have my book in my pocket, I can show it to you, that it is in good order."

Mr. Hecht: Mr. Examiner, I am going to move to strike this latter part of the conversation right now. I don't think it is material to this case at all, this man's opinion as to his position in the union.

Trial Examiner Ruckel: Well, let's have the whole conversation.

What else was said?

The Witness: And he says, "well, there would be no point in me looking at your book," he says, "the thing is, we have a contract and we have to live up to it."

Q. (By Mr. Royster): Have you exhausted your recollection as to what else may have taken place?

A. No, I know what he said. I was just trying to think how he said it.

Trial Examiner Ruckel: Well, what was it?

A. Well, he says I am not the only one that is being laid off. He says, "Some of them wanted to see it in writing," he says, "but we tried to refrain from giving it in writing because that makes it seem so final," and he would want to keep it on kind of a temporary basis, if possible, or something to that effect, is the way he put it.

Q. (By Mr. Royster): Is there anything else you remember?

A. Yes. I remember that I mentioned to him that for every one of us that was laid off like that, for wearing those buttons, he was going to have some kind of a charge placed against him. I didn't know

(Testimony of Franklin L. Richmond.)

just what kind it would be, but he would have some kind of a charge against him. Then he led me out to the gate. I haven't been back yet.

Mr. Royster: That is all.

Mr. Hecht: I move to strike, Mr. Examiner, all that testimony referring to conversations with Mr. Altman, and with respect to his removal from employment.

Trial Examiner Ruckel: It may stand. Any questions?

Mr. Rowell: No questions.

Trial Examiner Ruckell: Respondent?

Cross-Examination

By Mr. Hecht:

Q. Mr. Richmond, did you on December 17, 1945, attend a trial or a hearing in Oakland at the Green Room, a trial before the ILWU committee?

A. Well, I went to this——

Q. (Interposing): Call it what you will.

A. I went to this so-called trial. I don't remember the exact date.

Q. It would be around December 17, '45, at any rate?

A. Possibly, but I didn't stand trial.

Q. You just went in and left? [532]

A. Yes.

Mr. Hecht: That is all.

Trial Examiner Ruckel: Just a moment. Mr. Edises?

Q. (By Mr. Edises): Mr. Richmond——

(Testimony of Franklin L. Richmond.)

Mr. Hecht (Interposing): Oh, pardon me. Before you go on, Mr. Edises.

Q. (By Mr. Hecht): Did you subsequently get any notice from the ILWU that you had been expelled from the Union? A. No, I didn't.

Q. Did you hear that you had been expelled from the Union?

A. I heard something to that effect.

Mr. Hecht: That is all.

Q. (By Mr. Edises): Mr. Richmond, we have stipulated with your counsel that you were present at this meeting of July 30, 1945, at the Finnish Brotherhood Hall, and that you went along with the actions taken there, and one of those actions, you may recall, was the sending of this notice, telegraphic notice, to the Union and to the company stating that people there were withdrawing from the ILWU and forming this Employees Welfare Association.

You recall that, do you not? A. I do.

Q. When did you change your mind about withdrawing from the ILWU?

Mr. Rowell: That is objected to. [533]

Trial Examiner Ruckel: Just a moment.

Finish the question.

Q. (By Mr. Edises): The question was: When did you change your mind about withdrawing from the ILWU?

Mr. Rowell: That is objected to; there is no testimony to that effect.

Mr. Edises: Mr. Examiner, I submit this wit-

(Testimony of Franklin L. Richmond.)

ness is one of those who, by stipulation, withdrew from the ILWU, and here we find a little while later he is making a to-do about being in good standing, or not being in good standing, and I have a right to ask him——

Mr. Rowell: Well——

Mr. Edises: And I have a right to finish my question, too, Mr. Rowell.

Mr. Rowell: Go right ahead.

Mr. Edises: Will you read back my statement, please?

(The statement referred to was read by the reporter.)

Mr. Edises (Continuing): ——whether or not he changed his mind and when.

Mr. Rowell: That is a legal question, whether the man is in good standing or not. He may happen to have the impression himself that if he pays these dues he is in good standing.

Mr. Edises: Mr. Examiner, I didn't ask him that question. I asked him when he changed his mind.

Mr. Rowell: The question is misleading.

Mr. Hecht: Mr. Rowell, I will enter a stipulation with you that it is a legal question. If it is, what are we doing here?

Trial Examiner Ruckel: Objection sustained.

Mr. Edises: The objection is sustained to the question when he changed his mind, Mr. Examiner.

Trial Examiner Ruckel: Yes.

Mr. Edises: Now I will ask him a further question.

(Testimony of Franklin L. Richmond.)

Q. (By Mr. Edises): Mr. Richmond, did you ever change your mind about withdrawing from the ILWU?

Mr. Rowell: Well, that is the same question, Mr. Examiner. It depends on the legal conclusion of the witness, as to whether or not he actually had withdrawn from the ILWU.

Mr. Edises: Well, Mr. Examiner,——

Trial Examiner Ruckel: There is no question of the legal effect. It is his intention we are concerned with.

Mr. Edises: Certainly.

Trial Examiner Ruckel: He may answer, if he can.

A. Well, I would like to answer with a statement.

Trial Examiner Ruckel: You can.

The Witness: I was against going into the Warehousemen from the beginning, in July of 1941, I never wanted to go into it, and I voted so when our local voted on the question whether or not to go into it. I voted against it. [535]

Trial Examiner Ruckel: Well, that isn't answering the question. Counsel's point is that you approved of this wire which was sent saying that the group was withdrawing from the ILWU, this wire sent at this meeting on July 30. Then we find that as late as September you are still a member of the union because it is not until some time in September that you are expelled. So counsel asked you when it was that you changed your mind.

(Testimony of Franklin L. Richmond.)

Mr. Edises: If he changed his mind.

Trial Examiner Ruckel: If you changed your mind.

Mr. Edises: The question asked when he changed his mind was objected to.

Q. (By Mr. Edises): I am now asking you, Mr. Richmond, if, after this withdrawal telegram in which you concurred on July 30, if you changed your mind after that about belonging to the ILWU?

A. And you mean did I change my mind and want to stay in good standing? Is that your point?

Trial Examiner Ruckel: Yes.

Q. (By Mr. Edises): Yes, that is all right. We will put it that way.

A. No, not at all.

Q. Yes.

A. I didn't change my mind, and I didn't give a hoot about being in good standing with the union, as far as that was [536] concerned. It was merely the fact that Mr. Altman was using this as an excuse to fire me.

Mr. Edises: Now, I ask that——

The Witness: And I was merely——

Mr. Edises: Just a minute.

I ask that part about Mr. Altman go out.

Trial Examiner Ruckel: It may be stricken.

Q. (By Mr. Edises): In other words, if I understand your answer, the telegram of July 30th withdrawing from the ILWU expressed your true wishes and intentions, and you never changed your mind; is that right? A. That is right.

(Testimony of Franklin L. Richmond.)

Mr. Edises: That is all.

Mr. Royster: No questions.

Mr. Rowell: No questions.

Mr. Hecht: Mr. Examiner, in the testimony of the witness on cross-examination I move to dismiss any charges on behalf of this complainant against the respondent.

Trial Examiner Ruckel: Motion denied at this time.

Mr. Rowell: Could I ask one question?

Redirect Examination

By Mr. Rowell:

Q. With regard to that so-called trial that the ILWU had you come to, you testified that you went there and left.

Did you in addition join in that statement which was [537] read in your behalf explaining the reasons why you weren't standing trial? A. Yes.

Mr. Rowell: No further questions.

Trial Examiner Ruckel: Any further questions?

Mr. Royster: None.

Mr. Hecht: No questions.

Trial Examiner Ruckel: That is all.

(Witness excused.)

Mr. Royster: Mr. Navarro.

EDWARD NAVARRO

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

(Testimony of Edward Navarro.)

Direct Examination

By Mr. Royster:

Q. State your name and address, please?

A. Edward Navarro, 1516 5th Street, Berkeley, California.

Q. When did you go to work for the respondent, Mr. Navarro?

A. Oh, it was in December, on or about the 5th, 1944.

Q. Were you a member of any labor organization when you went to work there?

A. Yes, I was a member of the 1304, CIO Union.

Q. Is that the East Bay Union of Machinists?

A. Yes.

Q. Local 1304? [538] A. Yes.

Q. Now, did you continue your membership in that organization? A. Yes, I did.

Q. Did you sign a designation card for the A. F. of L.? A. Yes, on or about August 3.

Q. 1945? A. 1945.

Q. After signing that designation card did you continue—I will withdraw that.

Did you ever pay dues to Local 1304?

A. Yes, I did, until——

Q. After signing the designation card of the A. F. of L., did you continue to pay dues?

A. Yes, I did.

Q. Did you ever join the ILWU?

A. No, I didn't.

Q. Did you in the month of August, 1945, or

(Testimony of Edward Navarro.)

early September, 1945, make any attempt to transfer to the ILWU?

A. I did. I went and I was refused.

Q. You made an attempt to transfer?

A. I did.

Q. And the transfer was refused?

A. Yes.

Mr. Edises: What was the date of that? [539]

Q. (By Mr. Royster): Can you give us the date that you made this attempt?

A. Well, it was on or about September 4th when I was handed that letter from Mr. Wood that I had to go to Oakland and join the ILWU, about 10 o'clock I was handed that letter, and I went about three o'clock. I went out—they made me go out to transfer, and I met Mr. Smith.

Q. Is that Jim Smith?

A. Yes, and I handed the letter and my book saying that the ILWU tried to transfer me, or else I wouldn't be working at Peet's any longer, and there was another man there from the Machinists Union that said I couldn't be—get any transfer because I was wearing an A. F. of L. button in the plant.

So Mr. Smith handed me the letter and the book back and said that I was washed out. That is all.

Q. So you were never able to transfer to the ILWU? A. No.

Q. And you were taken off the job at Peet's were you not? A. Yes.

Mr. Royster: That is all.

(Testimony of Edward Navarro.)

Mr. Hecht: Off the record, please.

Trial Examiner Ruckel: Off the record.

(Remarks outside the record.)

Trial Examiner Ruckel: On the record.

Cross-Examination

By Mr. Edises:

Q. Mr. Navarro, when did you go to work at Peet's? A. On or about December 5, 1944.

Q. And what was your job?

A. Soap blower.

Q. Soap blower? A. Yes, sir.

Mr. Edises: Will it be stipulated that the job that this witness was engaged in was one of those which is covered by the contract between the company and Local 6?

Mr. Royster: I assume that is so. Let's go off the record for a minute.

Trial Examiner Ruckel: Off the record.

(Remarks outside the record.)

Trial Examiner Ruckel: On the record.

Mr. Edises: Will it be stipulated by counsel for the parties here that the witness Navarro was engaged in an activity, a job which is within the bargaining unit covered by the contract of July 9, 1941?

Mr. Royster: So stipulated.

Mr. Rowell: So stipulated.

Mr. Hecht: So stipulated.

Q. (By Mr. Edises): Now, Mr. Navarro, what was the date in 1944 that you went to work?

Mr. Rowell: Already asked and answered. [541]

(Testimony of Edward Navarro.)

Mr. Royster: That is the third time now.

Mr. Edises: I am sorry.

Mr. Royster: December 5.

Mr. Edises: December 5.

Q. (By Mr. Edises): Did you apply for membership in ILWU Local 6 on or before December 20, 1944? A. No.

Q. Did you apply for membership in Local 6 at any time after you went to work, and prior to the time that you went to see Jim Smith?

A. No, I didn't apply.

Mr. Edises: I have no further questions, but I wish to direct the attention of the Trial Examiner to Section 3 of the agreement, which is in evidence, which provides that any employee in order to be eligible for employment by the company, and who is within the bargaining unit, must make application for membership within 15 days of their employment in order to have status.

Trial Examiner Ruckel: What is the Board's theory at to this man?

Mr. Royster: That he was left alone, that it was satisfactory for him to belong to the CIO Machinists Union until the time came when he wore an AFL button in the plant, and a question concerning representation arose, and the campaigning got hot, and then they thought they had better get rid of him. [542] I think they are stultified by the fact they let him go for 9 months.

Trial Examiner Ruckel: Isn't that their privilege to let him go?

(Testimony of Edward Navarro.)

Mr. Royster: What is that?

Trial Examiner Ruckel: You claim that is not their privilege?

Mr. Royster: Oh, it is their privilege to let him go for 9 months. They are privileged, of course, never to require him to join the ILWU?

Mr. Rowell: But when he joins the A. F. of L. he is then required to, when he joins in a movement of change of affiliation.

Mr. Hecht: Mr. Examiner, may I point out that the record shows that five of the complainants in this matter were the stewards from the date he went into the employ of the company to July 1, 1945.

Trial Examiner Ruckel: Well, anyway, that is your theory.

Mr. Royster: That is our theory, yes.

Trial Examiner Ruckel: Any further questions?

Mr. Rowell: I have a question or two.

Redirect Examination

By Mr. Rowell:

Q. When you went to work there, Mr. Navarro, did you know of this contract the ILWU had with the [543] Company?

Mr. Edises: Objected to as immaterial, whether he knew it or not. The question is one of whether the ILWU had the right under its contract.

Mr. Rowell: That is preliminary, Mr. Examiner.

Mr. Edises: To ask that this man be dismissed.

Trial Examiner Ruckel: Objection sustained.

Q. (By Mr. Rowell): Did anyone from the

(Testimony of Edward Navarro.)

ILWU come around to you when you were working before this date of September 4th or 5th that you testified to and ask you to join—tell you you had to join a union? A. Yes; Mr. Davies.

Q. Mr. Davies? A. Roy Luchsinger.

Q. Roy Luchsinger? When was that?

A. I couldn't remember exactly, but it was about—two or three months after I started working there, and he called my attention and said, "You better go and join the ILWU." And I went to get my release card from the 1304, and I can't name the two persons that were there, and they said, "Well, if there are four more members of the 1304 in that plant that have not been molested by this union, why could I want any transfer?" "You stay the same way that you are." So I stayed, and nobody bothered me after that in the 1304 because there was four more machinists there, and they never made any [544] attempt to transfer them to the ILWU.

Mr. Hecht: I move to strike all of that, Mr. Examiner.

Trial Examiner Ruckel: It may stand.

Mr. Rowell: I think it is perfectly relevant.

Q. (By Mr. Rowell): To your knowledge, are there other members of 1304 still employed there that are not members of the ILWU?

A. Yes, there are three or four of them. I am not sure if there are four, but three there are.

Mr. Rowell: That is all.

Mr. Royster: No questions.

(Testimony of Edward Navarro.)

Mr. Hecht: Mr. Examiner, I move to dismiss all the charges brought on behalf of this complainant.

Trial Examiner Ruckel: Motion denied at the present time.

Mr. Royster: That is all.

Trial Examiner Ruckel: That is all.

(Witness excused.)

Mr. Royster: Rose Gilbert.

ROSE GILBERT

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Royster:

Q. Will you state your name and address, please? [545]

A. Rose Gilbert, 2449 Bonner, Berkeley.

Q. When did you go to work for the Respondent, Miss Gilbert?

A. Oh, sometime in September. I don't know when.

Mr. Edises: Will you talk up a little?

The Witness: I went to work at Colgate-Peet's sometime in September.

Trial Examiner Ruckel: Of what year?

The Witness: Of '45.

(Testimony of Rose Gilbert.)

Q. (By Mr. Royster): Could it have been about the 21st of August, 1945?

A. It might be, somewhere around there. I don't know the exact date I started.

Q. Now, will you tell me how you secured employment there?

A. I went down there and put an application in and about——

Q. (Interposing): Went down where?

A. Down to the office at Colgate-Peet's.

Q. Of the plant? A. Yes.

Q. All right.

A. And a few day later they called me up, and I went to work there.

Q. Were you told that you must join any labor organization to work there?

A. No, there was not any stipulation of any kind that the [546] CIO was even in there. I didn't even know they existed, nor did any shop steward or anybody else come around and tell me there was a CIO in there.

Q. Did you join any union when you went to work there?

A. I joined the AF of L after I was there for about, oh, I guess, two or three days.

Q. And did you have an AF of L button?

A. Yes.

Q. What did you do with it?

A. Wore it. I was a member of their union.

Q. Did you wear it in the plant while you were at work? A. Sure!

(Testimony of Rose Gilbert.)

Q. When were you discharged by the company?

A. I can't remember the date.

Q. Could it have been the 13th of September, 1945?

A. It might be that, or a little later. I know I didn't work there very long, not any longer than about two or three weeks, I don't think.

Q. Well, will you tell me the events leading up to your discharge? Did you have a conversation with anyone?

A. Yes, I had a conversation with that guy there in the maroon tie (indicating).

Mr. Edises: You mean Mr. Gleichman?

The Witness: I mean that guy in the red tie. He is no "Mr." to me. [547]

Trial Examiner Ruckel: Just answer the questions. Don't be impertinent. Answer the questions.

Mr. Rowell: Try to hold your temper with regard to Mr. Gleichman.

The Witness: Oh, him? I would like to slug——

Mr. Royster: Well, may the record show that the witness has identified Hack Gleichman as the person with whom she had a conversation?

Trial Examiner Ruckel: The witness has identified Mr. Gleichman.

The Witness: Well, he isn't the one that stopped us outside the gate that day. They stopped everybody going in the gate and asked them if they were a member, and I said, "No," so he told me to stand with another group. I don't know who the men

(Testimony of Rose Gilbert.)

were. And I did, and then another fellow came over and he said, "No, let her go through. I know she is a member of the AF of L, but she has been misled."

So he took down my name, and he wrote "misled" after it, and I went through and I went to work.

Not long after that Gleichman and that guy sitting alongside of him (indicating) came up to me one day and they asked me if I was a member of the CIO, and I said, "No," and he asked me if I was a member of the AF of L, and I said "Yes."

Trial Examiner Ruckel: Did he ask you to join the CIO? [548]

The Witness: Yes. And I told him that I was going to wait until the matters were settled there at the plant. He said as far as he was concerned that I was through working at Colgate-Peet's, and I told him I would come in, and I came in the next day. Then we went to Mr. Wood's office, and he talked to Mr. Wood, and I told Mr. Wood I would join the CIO if they gave me——

Mr. Wood: Speak louder.

The Witness: ——if they gave me the 15 days' notice that everyone else got that was a closed shop. And Gleichman said "No," and Mr. Wood himself turned around and asked Gleichman if I was fired or not.

Who does the firing? You or him?

Trial Examiner Ruckel: That may be stricken. I said, young lady, don't be impertinent on the

(Testimony of Rose Gilbert.)

witness stand. Any further questions of this witness?

Mr. Royster: None.

Mr. Hecht: I have none.

Trial Examiner Ruckel: Have you any further questions?

Mr. Royster: No further questions.

Trial Examiner Ruckel: On what theory is she in the complaint?

Mr. Royster: On the theory, in the first place, she was not notified that there was a closed shop contract existing there. [549]

Trial Examiner Ruckel: Well, that is up to the person that hires her, isn't it?

Mr. Royster: Yes, except the day she was discharged, and, further, there is a substantial question in my mind as to the right of a contracting union, when there is a controversy as to who is the bargaining agent for the employees, to force the employee to join any particular labor organization as a condition of employment.

Mr. Rowell: The question is whether the company has the right to comply with the requests of the contracting union in such a situation when they have been notified of the existence of a question concerning representation among their employees.

Trial Examiner Ruckel: You mean to say that the mere filing of a petition—the petition was filed in August?

Mr. Royster: The petition was filed in August. There had been a hearing on it.

(Testimony of Rose Gilbert.)

Trial Examiner Ruckel: Upholds the operation of the contract, therefore a union could file a petition every week or every month, that automatically would——

Mr. Royster: Not “automatically.” There is another question here, whether this girl was given a sufficient opportunity to join the ILWU.

Trial Examiner Ruckel: She said she was asked. It is quite obvious she never intended to, in fact, she practically [550] said she never intended to. That is the way I understood her testimony.

Now, you said you didn’t tell them you would join?

The Witness: Yes.

Trial Examiner Ruckel: Who did you tell that to?

The Witness: I told Mr. Wood and Mr. Gleichman.

Mr. Hecht: If they would give you 15 days?

The Witness: If they would give me the 15 days’ notice I would join the CIO.

Trial Examiner Ruckel: And what 15 days’ notice did you refer to?

The Witness: Well, the 15 days’ notice practically anybody gets when they go into a closed shop. You don’t have to join any union immediately.

Trial Examiner Ruckel: You didn’t refer to any particular 15 days’ notice, though?

The Witness: No, just a 15-day notice. And Mr. Wood asked Mr. Gleichman if it was all right, and Gleichman said “No.”

(Testimony of Rose Gilbert.)

Trial Examiner Ruckel: Any further questions?

Mr. Hecht: I have no questions except a motion to dismiss all charges brought on behalf of this complainant which, I think, should be granted at this point, Mr. Examiner.

Trial Examiner Ruckel: Motion allowed. [551]

You are excused.

(Witness excused.)

Mr. Royster: May we have a few minutes' recess right now? I believe that is all the witnesses I have, Mr. Examiner.

Trial Examiner Ruckel: Recess for 10 minutes.

(A short recess was taken.)

Trial Examiner Ruckel: Does the Board have any further witnesses?

Mr. Royster: No further witnesses, Mr. Examiner. I do have a few more matters that I wish to bring up at this time.

The first is with respect to Board's Exhibit 6. The company has supplied me with a photostatic copy of the telegram which was sent by certain individuals as shown on Board's Exhibit 6, and the photostatic copy differs slightly from the copy of the telegram which is in evidence, and I will ask, if the parties will agree, that this photostatic copy may be submitted now for Board's Exhibit 6.

Mr. Hecht: No objection, Mr. Royster.

Mr. Rowell: No objection.

Trial Examiner Ruckel: Is there any objection, Mr. Edises?

Mr. Royster: Substituting this photostatic copy for the one already in evidence? [552]

Mr. Edises: None at all.

Mr. Royster: It is Board's 6.

Trial Examiner Ruckel: Motion allowed to substitute the document for the one now in evidence.

Mr. Royster: Oh, Mr. Examiner, around the 6th, 7th, or 8th of January, 1946, I requested Mr. Wood to supply me with a list of individuals who had been released from the employment of the company from and including July 30, 1945, to date. And in response to my request Mr. Wood sent me this list through the mail. Included on the list were the names of three individuals who are not named in the complaint, and lines have been drawn through those names.

I offer this list now in evidence.

Mr. Edises: May I see it, please?

Mr. Royster: Yes (handing document).

Trial Examiner Ruckel: With the exception of those names, then, those on the list are identical with those whose names appear in the complaint?

Mr. Royster: Yes.

Trial Examiner Ruckel: What is the purpose of the exhibit, then, Mr. Royster?

Mr. Royster: Well, it shows the period, the date of hiring of these employees, the date when the company's record shows that they were released, and the classification of employment they had with the company. [553]

Trial Examiner Ruckel: You mean it is a little more accurate than——

Mr. Royster: Well, possibly. It serves to expand the information concerning these employees slightly.

Mr. Rowell: In addition to that, Mr. Examiner, because of certain stipulations we haven't called all the witnesses so that there is no evidence in the record as to the fact they actually were discharged except on the basis of this document.

Trial Examiner Ruckel: It may be well to have this so there will be no question of the fact of the discharge.

Mr. Edises: This proposed exhibit, Mr. Examiner, has a heading, "Date released."

I presume that that refers to the date the company removed these people from employment?

Mr. Royster: It is the date they last worked, Mr. Edises.

Mr. Edises: The date they last worked.

Mr. Royster: Or, I think, more accurately the date for which they received pay.

Mr. Edises: Well, now, would you have any objection to substituting for this ambiguous word "released" the statement of fact that you have just given?

Mr. Royster: Not at all; no objection.

Mr. Edises: The date for which they were last paid? [554]

Mr. Royster: Correct.

Mr. Edises: May I have your permission to insert that on the document?

Mr. Royster: It may be changed physically.

Trial Examiner Ruckel: Any objection?

Mr. Rowell: No objection.

Mr. Hecht: No objection by respondent.

Mr. Royster: The date for which last paid.

Mr. Hecht: May I see that for a minute, please?

Mr. Royster: Yes (handing document).

Mr. Hecht (Examining document): No objection.

Trial Examiner Ruckel: What is the exhibit number on that?

The Reporter: Board's 15.

Trial Examiner Ruckel: Board's Exhibit 15 may be received.

(Thereupon the document above referred to was marked Board's Exhibit No. 15 and received in evidence.)

Mr. Royster: Yesterday afternoon, Mr. Examiner, Mr. Edises, counsel for the intervener, requested that I supply him with the dates when the individuals named in the complaint signed application for membership cards in the AF of L. I am now prepared to read that information into the record. [555]

Trial Examiner Ruckel: Go ahead.

Mr. Royster: Harry A. Smith, August 8, 1945; Calixto Rigo, August 6—all dates are 1945.

Mr. Hecht: I beg your pardon?

Mr. Royster: All dates are 1945.

Mr. Hecht: Yes.

Mr. Royster: Manuel Souza, August 8; Harold

Lonnberg, August 3; William Sherman, August 3; Thomas Azevedo, August 3; Martin Heppler, August 3; Sanford Moreau, August 8; Henry Geanarelli, August 3; Clyde Haynes, August 8; Glenn Hixson, August 3; Robert Ashworth, August 3; Ann Cerrato, August 3; Rose Marie Ros, August 3; Lincoln Olsen, August 3; Frank Marshall, August 8; Albert Zulaica, August 3; Vincent Barboni, August 3; Henry Hellbaum, August 6; Felix Denkowski, August 3; Harry Anderson, August 3; Dave Luchsinger, August 3; Sebastian Ramirez, August 3; Edwin H. Thompson, August 3; Genevieve Young, August 3; Kay Norris, August 3; Manuel Alegre, August 7; Manuel Munoz, August 3; Nick Tate, August 6; Catano Periera, August 6; Ina Mae Paige, August 4; Ophelia Reyes, August 6; John Puruca, August 7; Alden Lee, August 3; William Howard, August 3, and Frank Richmond, August 3.

Trial Examiner Ruckel: Anything further, Mr. Royster?

Mr. Royster: That is all for the Board.

Trial Examiner Ruckel: Any motions by any of the parties? [556]

Mr. Royster: No motions at this time.

Mr. Rowell: May it be understood, Mr. Examiner, that the closing of the Board's case does not preclude the charging union from calling a witness or two if it feels so advised?

Mr. Hecht: Oh, no. The Board rests now, I think.

Trial Examiner Ruckel: It is your turn now if you want to call any witnesses.

Mr. Rowell: I mean on the matter of rebuttal, if necessary.

Mr. Edises: Well, Mr. Examiner, I submit that that is entirely a different matter, but as far as the Board's case is concerned, I presume that the charging union has no separate case, and I think we are entitled to know whether they are resting or not?

Trial Examiner Ruckel: Well, you don't intend to adduce any testimony other than what the Board has adduced?

Mr. Rowell: No, only on the matter of rebuttal, possibly.

Trial Examiner Ruckel: Well, the Board can call its own rebuttal witnesses, if you will furnish them to the Board.

Mr. Rowell: I will do that.

Mr. Hecht: Mr. Examiner, there are certain obvious [557] matters I would like to make certain motions to dismiss at this point.

Calling your attention to Paragraph 5, Subdivision 2 of the complaint—ready, Mr. Royster?

Mr. Royster: Yes.

Mr. Hecht: I move to dismiss the following charge, Mr. Examiner, that of "Removing literature, posters, and notices of the Union from respondent's bulletin boards in the plant, while not disturbing literature, posters, and notices of the ILWU on the same boards."

I submit there is absolutely no evidence on that point.

Trial Examiner Ruckel: Do you recall any?

Mr. Royster: I recall no evidence on that point, Mr. Examiner.

Trial Examiner Ruckel: Does anybody else recall any?

Mr. Edises: I join in that motion.

Trial Examiner Ruckel: Motion allowed.

Mr. Hecht: Referring also to Subdivision 4 of the same paragraph, the charge "Permitting the ILWU to publish on respondent's bulletin boards, statements that the union members, supporters, or adherents would be discharged."

Mr. Royster: Certainly there was evidence as to that. I will oppose the motion.

Trial Examiner Ruckel: There was some evidence that the notice which warned employees not to attend that meeting [558] was posted on some of the bulletin boards, I believe.

Mr. Royster: There was also evidence that another notice was——

Mr. Hecht (interposing): I mean, if the Examiner will note that the charge is that the respondent, through its officers, agents, and employees—did those things.

Trial Examiner Ruckel: Yes, I know. Motion denied.

Mr. Hecht: Very well.

Directing your attention to Subdivision 3, "Refusing union representatives access to its Berkeley plant, while permitting ILWU representatives freely to enter the plant and to visit employees during working hours."

The Examiner will recall that the only evidence

mony was to this effect: that the meeting of July 30 was an open meeting, it was an organizational meeting. As a matter of fact, it was not an AF of L meeting, and that all employees were invited to attend, but there is certainly no evidence [561] that the meetings after that were open meetings.

Trial Examiner Ruckel: I don't think there is any evidence of surveillance. Motion allowed to dismiss.

Mr. Hecht: Now, going back to Subdivision 1 of Paragraph V, may it please the Examiner, with reference to the first nine men removed from their employment, there is no evidence whatsoever that on July 30 and 31 the company had any knowledge of the reasons behind the removal from good standing of these men. Whatever may be said as to the company's refusal to reemploy them is, perhaps, still subject to argument, but I think there is no argument whatever on the question that the company did not discharge or threaten to discharge these men, that is, the first nine, because of any activity on behalf of the AF of L.

I think the record is clear as it can possibly be, it is proved beyond a demonstration by the very witnesses put on the stand by Mr. Royster.

Mr. Royster: Well, assuming that what Mr. Hecht says is true, I don't see that that is any grounds for requesting the dismissal of Paragraph 1 of Paragraph V.

Mr. Rowell: Furthermore, the case isn't closed yet. It would be quite inappropriate to grant such

a motion. In the first place, there is no evidence tending to indicate the company had knowledge——

Trial Examiner Ruckel: The case is closed as far as [562] the Board is concerned.

Mr. Rowell: I know, but if the evidence comes in as a result of the company's case, it is possible they might prove our case. Furthermore,——

Trial Examiner Ruckel: You can't depend on any such technique as that unless you get some evidence of your own case in.

Mr. Rowell: I never heard of such a motion being granted at this time when the case is not completed.

Trial Examiner Ruckel: Well, I certainly would grant the motion if I were of the opinion there was no evidence whatsoever, just in the hope that maybe some evidence might crop up during the respondent's case. I do, however, think that there is some evidence and I am going to deny the motion.

Mr. Hecht: 2 and 5 are granted then, Mr. Examiner?

Trial Examiner Ruckel: Sir?

Mr. Hecht: Subdivisions 2 and 5, the motions with respect to Subdivisions 2 and 5 are granted?

Trial Examiner Ruckel: That is right, 2 and 5.

Mr. Hecht: I will reserve further motions until the close of our case, Mr. Examiner.

Trial Examiner Ruckel: All right, sir.

Mr. Edises: Mr. Examiner, on behalf of the Intervener, I wish to move the dismissal of the complaint in so far as it charges the discriminatory discharge of the individual [563] complainants on the

ground that the evidence shows that there was at the time these alleged discharges took place a valid closed shop agreement with the ILWU.

Trial Examiner Ruckel: This isn't going to be extended, is it?

Mr. Edises: Oh, no. It will be very short.

The validity of the contract is not questioned, and I merely want to call to the attention of the Trial Examiner the fact that although the Board has indicated a disposition to protect employees from discharge under closed shop agreements at a time when a question of representation is open, it has never gone so far as to hold the employees who by their own action have withdrawn from the contracting union and thereby put themselves completely beyond the scope of the contract are entitled to such protection. The only cases which the Board has so far dealt with this question are ones in which the employees have remained in the contracting organization at the same time that they organized and became members of the rival labor organization.

Trial Examiner Ruckel: Does that complete the motion?

Mr. Edises: That part of it.

Trial Examiner: You are asking that the complaint be dismissed?

Mr. Edises: I have an additional motion. [564]

Trial Examiner Ruckel: Go ahead.

Mr. Edises: Do you wish me to proceed with that?

Trial Examiner Ruckel: Go ahead.

Mr. Edises: My second motion is that the com-

plaint be dismissed, and in the alternative that the Trial Examiner rule that these employees have placed themselves outside the scope of the Board's remedial action by reason of the fact that they participated against the will of the union to which they belonged in an unauthorized strike during wartime, thereby not only dishonoring the pledge that their labor organization and the labor movement generally had made against wartime strikes, but at the same time—well, I will withdraw that second ground—that it was in violation of the wartime no-strike pledge, that it was conduct of a kind which brings itself within the scope of appropriate discretionary action by the Trial Examiner, even if it were assumed that a case of violation of Section 8(3) of the Act had been established.

Trial Examiner Ruckel: Motion to dismiss on the grounds stated denied.

Any further motions? (No response.)

Call the first witness for the Respondent.

Mr. Hecht: Mr. Clifford A. Altman.

CLIFFORD A. ALTMAN

called as a witness on behalf of Colgate-Palmolive-Peet [565] Company, being first duly sworn, was examined and testified as follows:

(Testimony of Clifford A. Altman.)

Direct Examination

By Mr. Hecht:

Q. Will you state your name for the record, Mr. Altman? A. Clifford A. Altman.

Q. What is your business or occupation?

A. I am the Superintendent of the Colgate-Palmolive-Peet Plant in Berkeley.

Q. Will you keep your voice up, Mr. Altman?

A. Yes, sir.

Q. How long have you been employed by the Respondent? A. I am in the 30th year.

Q. And what is your present position?

A. My present position?

Q. Yes. A. Superintendent.

Q. Yes. And were you the Superintendent on July 26, 1945? A. Yes, sir.

Q. That day was a Saturday, was it not, July 26? Do you recall?

Mr. Royster: It was a Thursday. I will help you out a little bit.

Mr. Hecht: O, pardon me.

Let me lead the witness to save a little time, Mr. [566] Royster.

Mr. Royster: To a certain extent.

Q. (By Mr. Hecht): Were you aware of a supper meeting that certain employees of the Respondent held on July 26, 1945? A. No, sir.

Q. When, if ever, did you hear of that meeting?

A. I never heard of it until somebody mentioned it a few days ago.